

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**GALLUP INDIAN MEDICAL CENTER—
AN IHS-OPERATED HEALTH
FACILITY—DID NOT TIMELY
CONDUCT REQUIRED BACKGROUND
CHECKS OF STAFF AND SUPERVISE
CERTAIN STAFF**

*Inquiries about this report may be addressed to the Office of Public Affairs at
Public.Affairs@oig.hhs.gov.*



Amy J. Frontz
Deputy Inspector General
for Audit Services

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

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REPORT HIGHLIGHTS



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Gallup Indian Medical Center—an IHS-Operated Health Facility—Did Not Timely Conduct Required Background Checks of Staff and Supervise Certain Staff

Why OIG Did This Audit

- The Indian Child Protection and Family Violence Act established requirements for Federal background investigations for individuals in contact with Indian children as well as supervision of such individuals pending completion of the background investigation. Prior OIG work in this area found noncompliance with these requirements.
- This audit assessed whether Gallup Indian Medical Center (the Hospital), an IHS-operated health facility in Gallup, New Mexico overseen by the IHS Navajo Area Office, met Federal requirements for conducting background investigations and supervision of staff in contact with Indian children.

What OIG Found

- For 45 of the 50 staff members we reviewed, the Hospital did not comply with Federal requirements for conducting background investigations of staff in contact with Indian children, including failing to initiate or timely initiate and adjudicate certain investigations.
- For the 50 staff members, the Hospital did not document supervision for 44 staff members with pending background investigations (provisional staff) in accordance with Federal requirements.
- Navajo Area Office officials stated that they were unable to explain the cause of many of the deficiencies because they were not employed at the Hospital when the deficiencies occurred. However, we determined that the deficiencies generally occurred because the Hospital did not monitor compliance with background check requirements for permanent staff and its procedures do not include completing background investigations on temporary staff or documenting compliance with supervision requirements.
- As a result of these deficiencies, Indian children faced an increased risk of harm and abuse.

What OIG Recommends

We made a series of five recommendations to IHS, including that it work with the Hospital and the Navajo Area Office to complete background investigations for staff members identified in our report, adequately document provisional staff supervision, and update standard operating procedures for background investigations. The full recommendations are in the report.

IHS concurred with four of our recommendations and partially concurred with one recommendation. IHS also detailed steps it has taken and plans to take to address them.

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INTRODUCTION

WHY WE DID THIS AUDIT

The Indian Health Service's (IHS's) mission is to partner with American Indians and Alaska Natives to elevate their physical, mental, social, and spiritual health to the highest level possible.¹ The goal of IHS is to ensure that comprehensive, culturally acceptable personal and public health services are available and accessible to all American Indian and Alaska Native people. Congress has expressed concerns about safeguards for Indian children and passed the Indian Child Protection and Family Violence Prevention Act (ICPFVPA), which established requirements for the minimum standards of character for individuals in contact with Indian children.² These standards include a Federal background investigation that includes a Federal Bureau of Investigation (FBI) fingerprint check as well as supervision of such individuals pending completion of the background investigation.

Prior Office of Inspector General (OIG) work in this area focused on several Tribes and their health programs as well as one IHS-operated facility.³ We found that the Tribes and their health programs as well as the IHS-operated facility did not comply with Federal requirements to perform background investigations for individuals in contact with Indian children. This placed the children served by these programs at an increased risk for harm. In this audit, we evaluated the background investigation and supervision processes for individuals in contact with Indian children at Gallup Indian Medical Center (the Hospital), an IHS-operated health facility in New Mexico.⁴

OBJECTIVE

Our objective was to determine whether the Hospital met Federal requirements for conducting background investigations and supervision of staff in contact with Indian children.

¹ IHS's mission is available online at <https://www.ihs.gov/newsroom/factsheets/quicklook/>. Accessed on Apr. 4, 2024.

² In this report, we use the term "in contact with Indian children" to describe individuals whose positions involve regular contact with or control over Indian children. Regular contact with or control over an Indian child means responsibility for an Indian child(ren) within the scope of the individual's duties and responsibilities or contact with an Indian child(ren) on a recurring and foreseeable basis (42 CFR § 136.403).

³ See Appendix B for related OIG reports.

⁴ We selected this facility based on several factors, including prior audits and service population.

BACKGROUND

Indian Health Service

The Department of Health and Human Services (HHS) Secretary, acting through IHS, must provide health promotion and disease prevention services to Indians to achieve the health status objectives set forth in law (25 U.S.C. § 1621b(a)), and IHS will “provide health promotion and disease prevention services to Indians” to “ensure the highest possible health status for Indians and . . . to provide all resources necessary to effect that policy” (25 U.S.C. §§ 1621b(a) and 1602(1)).⁵ IHS is the principal Federal Agency responsible for providing Federal health services to American Indians and Alaska Natives. In partnership with the 574 federally recognized Tribes, IHS provides primary and preventive health care services to approximately 2.6 million American Indians and Alaska Natives living in the United States through a network of over 605 hospitals, clinics, and health stations on or near Indian reservations. Facilities are predominantly located in rural primary care settings and are operated by IHS, tribal, or urban Indian health programs. IHS-operated facilities include 24 hospitals, 51 health centers, 24 health stations, and 12 school health centers.

The strategic goals of IHS include: (1) ensuring that comprehensive and culturally appropriate personal and public health services are available and accessible to American Indian and Alaska Natives, (2) promoting excellence and quality through innovation of the Indian health system into an optimally performing organization, and (3) strengthening IHS program management and operations. To accomplish these goals, IHS Headquarters provides general direction, policy development, and support to each of 12 Area Offices and their IHS-operated health care facilities, which may include hospitals, urgent-care clinics, and other types of facilities. Area Offices oversee the delivery of health services and provide administrative and technical support to the facilities located within a specified geographic region.⁶

Gallup Indian Medical Center

The Hospital, located in Gallup, New Mexico, is directly operated by IHS through its Navajo Area Office.⁷ It is one of four hospitals within the Navajo Area Office. The Hospital has the largest staff of all Navajo Area IHS facilities and one of the largest workloads, with 250,000 outpatient encounters and 5,800 admissions per year. The Hospital provides a wide range of services,

⁵ This concept is incorporated in IHS’s *Indian Health Manual*, which states that IHS aims to elevate the health status of Indians and Alaska Natives to the highest possible level (*Indian Health Manual*, part 1, chapter 3, §§ 1–3.4 (A)).

⁶ An Area Office is a bureau-level organization under the direction of an Area Director, who reports to the IHS Director. Each Area Office carries out the mission of IHS by providing a system of health care unique to the Area population. Area Office Directors supervise clinical directors, who administer programs of direct care to the Area population.

⁷ The Navajo Area Office oversees the provision of comprehensive health care services to American Indians and Alaska Natives from four tribes located in Arizona, New Mexico, and Utah.

including internal medicine, cardiology, emergency care, gynecology, obstetrics, pediatrics, and radiology.

Indian Health Service's Partnership With American Indians and Alaska Natives To Promote the Protection of Indian Children

In 1990, after a careful review of the problem of child abuse on Indian reservations, Congress passed the ICPFVPA,⁸ which required IHS to promulgate minimum standards of character for individuals working in IHS and Tribal health programs who are in contact with Indian children. The ICPFVPA and IHS's implementing regulations require IHS to conduct an investigation of the character of each individual in contact with Indian children (42 CFR § 136.404(a)). Individuals include contractors, volunteers, employees, and those being considered for these roles (42 CFR § 136.403). Reinvestigations must be conducted every 5 years (5 CFR § 731.106 (d)(1)).

An investigation of character must include a criminal history background investigation, which includes a fingerprint check through the Criminal Justice Information Services Division⁹ of the FBI (FBI fingerprint check) (42 CFR § 136.406(b)). An FBI fingerprint check accesses criminal history records voluntarily provided by Federal, State, and local jurisdictions. It provides positive identification and eliminates the false positives and false negatives associated with name-based investigations, and it provides additional criminal record history that may not be maintained by the State where a Tribe is located.¹⁰

Additionally, IHS must make inquiries of an applicant's criminal history to State and Tribal law enforcement for the previous 5 years of residency listed on an individual's employment application (42 CFR § 136.406(b)). IHS must compare the results of these criminal history verifications to IHS's minimum character standards (42 CFR § 136.414(e)(1-5)). IHS may not place individuals who do not meet IHS's minimum standards in a position that is in contact with Indian children (42 CFR § 136.404(a)). The Department of Defense through its Defense Counterintelligence and Security Agency (an Investigations Service Provider) conducts these investigations on behalf of IHS.

Finally, IHS may provisionally hire an individual prior to the completion of a background investigation if, at all times during which children are in the care of the individual prior to receipt of the background investigation, the individual is within the sight and under the

⁸ Section 408 of the Act, P.L. No. 101-630 (enacted Nov. 28, 1990) and codified at 25 U.S.C. § 3201.

⁹ The Criminal Justice Information Services Division was formerly known as the Identification Division.

¹⁰ We note that false positives can occur when a name check identifies a criminal history record for an individual that has a similar name and biographic identifiers. False negatives can occur when a name check fails to identify the criminal history record of an individual who provides inaccurate biographic information either at the time of arrest or when applying for a job, such as a false name and/or date of birth, or a false negative can occur due to misspellings or other such errors.

supervision of a staff person with a satisfactorily completed background investigation (42 CFR § 136.417).

Appendix C contains a detailed list of Federal requirements applicable to background investigations and supervision. Appendix D contains a description of IHS's background investigation process.

The Role of the Department of Defense in Background Investigations

The Federal Government, including IHS, conducts background investigations to determine if suitability or fitness requirements for employment as a Federal employee, contractor, or volunteer have been met. The scope of the investigation varies, depending on the nature of the position and degree of harm that could be caused by the individual in that position.¹¹

In April 2019, then-President Trump issued Executive Order 13869, which generally provided for the transfer of background investigation operations from the Office of Personnel Management (OPM) to the Department of Defense (DoD) and made related amendments to Executive Order 13467.¹² OPM and DoD signed an interagency agreement in June 2019 that set forth expectations for activities necessary for the transfer of functions of the National Background Investigations Bureau (NBIB) and associated employees and resources from OPM to DoD. NBIB was transferred to DoD on October 1, 2019, and is now known as the Defense Counterintelligence and Security Agency (DCSA).

Appendix E contains a general overview of DCSA's role in the background investigation, adjudication, and clearance processes.

HOW WE CONDUCTED THIS AUDIT

We reviewed background investigation documentation for staff members in contact with Indian children and the documentation of provisional staff supervision at the Hospital to evaluate the Hospital's compliance with applicable Federal requirements for calendar year 2022 (our audit period). Specifically, we selected a non-statistical sample of 50 staff members¹³ in contact with

¹¹ The scope of investigations of the Hospital's staff members requested by IHS include a Child Care National Agency Check and a check of State and Tribal law enforcement agencies for the previous 5 years of residence listed on the individual's application.

¹² Exec. Order No. 13869, *Transferring Responsibility for Background Investigations to the Department of Defense*, 84 Fed. Reg. 18,125 (Apr. 24, 2019) (amending Executive Order 13467). Section 925 of the National Defense Authorization Act for Fiscal Year 2018 generally resulted in the transfer of background investigations from OPM to DoD for DoD and most other executive branch agencies' personnel.

¹³ Using OIG, Office of Audit Services (OAS) statistical software, we randomly selected 50 staff members that consisted of staff who had been working at the Hospital for: 5 years or less (22 staff); 6 to 10 years (9 staff); 11 to 15 years (7 staff); 16 to 20 years (5 staff); and more than 20 years (7 staff). The 50 staff members consisted of 42 Federal employees, 4 contractors, and 4 volunteers.

Indian children and reviewed documentation to determine whether: (1) Federal background investigations, inquiries of State and Tribal law enforcement agencies, and State criminal history repository checks were timely initiated; (2) completed background investigations were timely adjudicated; and (3) staff with pending background investigations were supervised.

We conducted this performance audit 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.

Appendix A contains our audit scope and methodology.

FINDINGS

The Hospital did not fully comply with Federal requirements for conducting background investigations of staff members in contact with Indian children and did not document supervision in accordance with Federal requirements. Specifically, for 45 of the 50 staff members we reviewed, the Hospital did not comply with Federal requirements for conducting background investigations, including failing to initiate or timely initiate and adjudicate certain investigations. Further, for 44 of the 50 staff members we reviewed, the Hospital did not provide evidence documenting that it supervised certain staff members with pending background investigations (provisional staff) in accordance with Federal requirements.¹⁴ These deficiencies generally occurred because the Hospital did not monitor compliance with background check requirements for permanent staff or timely perform background checks for temporary staff in accordance with the applicable requirements. Finally, the Hospital's procedures for documenting its compliance with supervision requirements for provisional staff included only before-the-fact assertions that compliance would be met, but not that compliance actually occurred.

Navajo Area Office officials stated that they were unable to explain the cause of many of the deficiencies because they were not employed at the Hospital when the deficiencies occurred. The Hospital did not monitor compliance with all the requirements for a satisfactory background investigation of all individuals in contact with Indian children and its procedures do not include completing background investigations on temporary staff or documenting compliance with supervision requirements. The Hospital's inability to document that the sight and supervision assurances actually occurred raises serious concerns about the established policies and procedures the Hospital had in place to supervise provisional staff. Consequently, Indian children faced an increased risk of harm and abuse.

¹⁴ The six remaining staff members were not provisional staff subject to supervision.

GALLUP INDIAN MEDICAL CENTER DID NOT MEET FEDERAL REQUIREMENTS FOR CONDUCTING BACKGROUND INVESTIGATIONS OF STAFF IN CONTACT WITH INDIAN CHILDREN

All positions that allow an individual regular contact with Indian children are subject to a background investigation and determination of eligibility for employment.^{15, 16} Federal law and regulations require, among other things, that IHS conduct a character investigation for each individual employed or being considered for all positions that have duties or responsibilities involving regular contact with Indian children and prescribe minimum standards of character that each individual must meet to be appointed or employed in such positions.¹⁷ These standards are met only after completion of a satisfactory Federal background investigation comprised of a criminal history background check, including a fingerprint check through the FBI's Criminal Justice Information Services Division and inquiries to State and Tribal law enforcement agencies for the previous 5 years of residence listed on the individual's application.¹⁸ Additionally, employment applications, signed under penalty of perjury, must contain a question asking whether the applicant has ever been arrested for, or charged with, a crime involving a child and if so requiring a description of the disposition of the arrest or charge.^{19, 20} Background investigations should be initiated no more than 14 days after placement in a position.²¹ Finally, background investigations should be adjudicated within 90 days of receipt of a completed investigation.^{22, 23}

¹⁵ IHS regulations state that "regular contact with or control over" an Indian child means responsibility for an Indian child(ren) within the scope of the individual's duties and responsibilities or contact with an Indian child(ren) on a recurring and foreseeable basis (42 CFR § 136.403).

¹⁶ 42 CFR § 136.409(a).

¹⁷ 42 CFR § 136.404(a).

¹⁸ 42 CFR § 136.406.

¹⁹ Section 231 of the Crime Control Act 1990 (P. L. No. 101-647, enacted Nov. 29, 1990).

²⁰ IHS uses an Office of Management and Budget Approved Form entitled "Addendum to Declaration of Federal Employment OF 306" (OF 306 Addendum) to document an individual's response to this question and, if applicable, the description of the disposition of an arrest or charge.

²¹ 5 CFR § 731.106(c)(1).

²² OPM, Federal Investigative Services Division - Federal Investigations Notice No. 07-05 (Aug. 1, 2007).

²³ Adjudication is the process IHS uses to determine eligibility for placement or retention of individuals in positions involving regular contact with Indian children (42 CFR § 136.414). IHS must designate qualified security personnel to adjudicate the results of background investigations (42 CFR § 136.410(a)). According to the HHS Personnel Security/Suitability Handbook, all reports of investigation should be adjudicated within 90 days after receipt by the Personnel Security Representative.

The Hospital's procedures for conducting background investigations are based on IHS's Pre-Employment Suitability Process Standard Operating Procedure document (SOP).²⁴ The SOP outlines procedures for the completion of a background investigation initiated through the Federal Government's electronic Questionnaires for Investigations Processing (e-QIP) system and conducted by the DCSA for permanent hires (121 days or more).²⁵

For 45 of the 50 staff members we reviewed, the Hospital did not comply with Federal requirements for conducting background investigations of staff in contact with Indian children to ensure these individuals met the required minimum character standards.²⁶ Specifically:

- For 31 staff members (29 permanent and 2 temporary hires), the Hospital did not timely adjudicate completed background investigations within 90 days of the completion of the background investigations. Eleven completed background investigations were still pending adjudication as of the end of our audit period.²⁷
- For 22 permanent staff members, the Hospital did not document whether the staff member was asked about any arrests or charges for a crime involving a child when they applied for employment.
- For 20 permanent staff members, the Hospital did not timely initiate Federal background investigations within 14 days of the individual's start date. Further, 16 of these 20 investigations were initiated more than 90 days late.
- For 19 permanent staff members, the Hospital did not follow up with DCSA on the status of inquiries with Tribal law enforcement agencies that were not completed.

²⁴ The SOP was updated in 2020, 2021, and 2022, to address improvements, updates, and the January 2020 implementation of the Security Manager tracking system to monitor and track compliance with background check requirements. In 2021, IHS issued a memorandum and two SOPs addressing the adjudication process and unfavorable background investigation determination actions. The memorandum was issued to remind all IHS staff that they are required to adhere to the background investigation and re-investigation process. The two accompanying SOPs outlined processes for adjudicating background investigations within 90 days of receipt from the DCSA and the process for handling unfavorable background investigations. In 2022, IHS began holding conference calls with all personnel security specialists to provide updates and reminders on adhering to the established SOPs and systems.

²⁵ e-QIP is a web-based automated system that facilitates the processing of standard investigative forms used when conducting background investigations for Federal security, suitability, fitness, and credentialing purposes. The system allows the user to electronically enter, update, and transmit their personal investigative data over a secure internet connection to IHS.

²⁶ The total number of staff members described in the bullets below exceeds 45 because we identified multiple deficiencies associated with 31 staff members.

²⁷ The 11 completed investigations were adjudicated during calendar year 2023.

- For five staff members (four temporary and one permanent hires), the Hospital did not initiate Federal background investigations.
- For four permanent staff members, the Hospital did not meet requirements to complete a State criminal history repository check.
- For one permanent staff member, the Hospital did not conduct a reinvestigation within 5 years.

Appendix F contains a summary of findings, if any, identified for each sample item.

For the noncompliance issues we identified for background checks of permanent staff, Navajo Area Office officials stated that they were unable to explain the cause of many of the deficiencies because they were not employed at the Hospital when the deficiencies occurred. In addition, IHS Headquarters officials stated that, since 2018, they were working through a backlog of background investigations that needed to be adjudicated. Further, we noted that some of the deficiencies we identified occurred because the Hospital did not adequately utilize HHS's electronic case management system to monitor and track compliance with background check requirements.²⁸ As a result, management could not determine if its procedures, as detailed in the SOP, were effectively implemented.

For the noncompliance issues we identified for background checks of temporary staff, we noted that the Hospital's background check procedures for temporary staff do not comply with Federal requirements. Specifically, preclearance checks prior to an employee's first day on the job only include a State criminal history background check with fingerprints instead of the required background investigation that must also include (1) a fingerprint check through the FBI's Criminal Justice Information Services Division and (2) inquiries to State and Tribal law enforcement agencies for the previous 5 years of residence listed on the employee's application.

Because the Hospital did not monitor compliance with background check requirements for permanent staff and its procedures do not include completing background investigations on temporary staff in accordance with the applicable requirements, it could not ensure that sampled staff members met the minimum standards of character for individuals in contact with Indian children. The Hospital acknowledged that it did not initiate the more comprehensive background investigations on temporary staff until they were employed for more than 120 days. Although IHS updated its SOP in 2020, 2021, and 2022, these updates did not include requiring the use of e-QIP and DCSA to complete background investigations for temporary hires as is required for permanent hires.

As a result of these deficiencies, Indian children faced an increased risk of harm.

²⁸ In January 2020, IHS began using the Security Manager electronic case management system to manage and track the background investigation process—from pre-appointment to final adjudication—for all personnel.

GALLUP INDIAN MEDICAL CENTER DID NOT DOCUMENT SUPERVISION OF PROVISIONAL STAFF IN ACCORDANCE WITH FEDERAL REQUIREMENTS

IHS may hire an individual prior to the completion of a background investigation (known as provisional staff) if, at all times during which children are in the care of the individual prior to receipt of a background investigation, the individual is within the sight and under the supervision of a staff person with a satisfactorily completed background investigation.²⁹ Each IHS facility's Medical/Clinical Director/Chief Medical Officer is responsible for ensuring compliance with this requirement.^{30, 31}

The Hospital's procedures for documenting that provisional staff were within sight and under the supervision of a staff member who had a satisfactorily completed background investigation are based on IHS's SOP. The SOP requires the completion of a Provisional Authorization Form (the Form) to be signed by the provisional staff member and two facility officials. The Form (revised November 2018) advises the provisional staff member of the sight and supervision requirements and states that their supervisor must ensure (emphasis added) that the supervision requirements are met. The Form also requires a supervisor's signature indicating their acceptance, responsibility, and compliance with the supervision requirements and that they will ensure (emphasis added) that the provisional staff member is assigned to appropriate personnel.

The Hospital did not document supervision for 44 of the 50 staff members in accordance with Federal requirements.³² Specifically, the hospital did not document supervision of staff members with pending background investigations who were in contact with an Indian child. The Hospital's inability to document that the sight and supervision assurances actually occurred raises serious concerns about the established policies and procedures the Hospital had in place to supervise provisional staff.

Appendix F contains a summary of findings, if any, identified for each sample item.

These deficiencies occurred because during calendar year 2022 (audit period), the Hospital's procedures for documenting its compliance with supervision requirements for provisional staff (i.e., the Form) included only before-the-fact assertions that compliance would be met, but not that compliance actually occurred. Additionally, according to Hospital officials, all provisional staff in the Hospital's pediatric department were supervised by a chaperone and all invasive procedures or intimate examinations in the Hospital's walk-in clinic were directly supervised.

²⁹ 42 CFR § 136.417; Crime Control Act, P.L. 101-647 § 231.

³⁰ IHM 3-36.2(E)(6).

³¹ The criteria do not discuss how to document compliance with this requirement.

³² The six remaining staff members were not provisional staff subject to supervision.

However, the Hospital did not provide any supporting evidence that chaperoning or direct supervision of provisional staff was provided in either the Hospital's pediatric department or the Hospital's walk-in clinic.

In addition, during our audit, the Hospital maintained Forms for 16 of the 44 sampled staff members for whom supervision was required. However, the Hospital did not provide Forms for the remaining 28 sampled staff members. For some of these staff, Hospital officials stated that they did not retain these Forms and for others, the officials had no explanation for the missing Forms. Further, the Hospital's procedures do not include any monitoring of the sight and supervision assurances made in the Form to determine if they actually occurred when provisional staff members were in contact with an Indian child.

Additionally, the lack of monitoring of compliance with these established procedures did not allow Hospital management to determine if its procedures are effective and make changes, as needed. As a result of these collective deficiencies, Indian children experienced a substantial potential risk of harm and abuse by an unqualified or potentially harmful staff member.

In January 2023, IHS began uploading a signed provisional authorization form to its Security Manager tracking system to provide a standardized process and consistent recording of Forms and to monitor compliance at the Service Unit (facility) and Area-level. Additionally, IHS is identifying, developing, and estimating implementation by December 31, 2024, of an agencywide process to ensure that the sight and supervision requirements for staff with pending background investigations are met and documented.³³

RECOMMENDATIONS

We recommend that the Indian Health Service work with Gallup Indian Medical Center and the Navajo Area Office to:

- take action to complete background investigations, including adjudication, for staff members identified in this report as not having a satisfactory background investigation;
- monitor background investigations to ensure all elements are completed within required timeframes in accordance with Federal requirements;
- update standard operating procedures for background investigations to include completing background investigations for temporary staff in accordance with Federal requirements;
- determine which staff members in contact with Indian children currently have a pending background investigation and take immediate action to supervise these staff

³³ IHS took these agencywide actions in response to our previous audit report of the Crow/Northern Cheyenne Hospital (A-02-21-02004).

members when children are in their care and adequately document such supervision;
and

- follow through on its plans for an agencywide process to facilitate compliance with the sight and supervision requirements for staff with pending background investigations, including documentation that supervision actually occurs.

IHS COMMENTS AND OIG RESPONSE

In written comments on our draft report, IHS, commenting on behalf of the Hospital, concurred with four of our recommendations and partially concurred with our remaining recommendation. IHS also described steps it has taken and plans to take to address our recommendations.

IHS concurred with our first and second recommendations and stated that, as of July 17, 2024, most staff identified in our draft report have been processed with a fully adjudicated background investigation.³⁴ IHS indicated that it updated its SOPs for pre-employment suitability requirements and was continuing to hold monthly conference calls to provide reminders on adherence to established SOPs and to reinforce the use of the Security Manager Tracking System to monitor background investigation activity across IHS.

IHS partially concurred with our third recommendation. Specifically, IHS stated that full background investigations are processed for temporary staff who continue their service beyond their initial 120-day appointment. However, IHS stated that it is not possible to meet the Federal background check requirements for temporary staff appointed for 120 days or less due to the time constraints to complete a full background investigation. IHS indicated that it would collaborate closely with the Hospital and the Navajo Area Office to ensure temporary staff comply with other IHS vetting measures, including FBI fingerprint checks and sight-and-supervision practices with dedicated onsite chaperones.

IHS concurred with our fourth and fifth recommendations and stated that it developed a Background Investigation Identification Requirement policy that was expected to be approved by the end of 2024 with an implementation plan to follow. According to IHS, this policy will help ensure compliance with sight and supervision requirements by establishing an identification card process to visually identify staff and contractors without a favorably adjudicated background investigation. IHS stated that it would work with the 12 IHS Area

³⁴ IHS stated that it had adjudicated background investigations for most, except for nine, of the staff identified in the draft report as having unadjudicated background investigations. Of these nine individuals, seven separated from IHS prior to the receipt of a closed background investigation and two have pending investigations with DCSA in order to render a final adjudication decision.

Offices to ensure full, consistent compliance with sight and supervision requirements for staff with pending background investigations.

We acknowledge the actions that IHS has taken to improve its processes for background investigations and supervision of certain staff and encourage IHS to follow through on its planned actions. However, we continue to recommend that IHS immediately act to supervise staff with pending background investigations until the Background Investigation Identification Requirement policy is effectively implemented.

IHS's comments are included in their entirety as Appendix G.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

We reviewed the background investigation documentation of staff members in contact with Indian children and the documentation of provisional staff supervision at Gallup Indian Medical Center (the Hospital) to evaluate the Hospital's compliance with applicable Federal requirements for calendar year 2022 (our audit period). Specifically, we selected a non-statistical sample of 50 staff members in contact with Indian children and reviewed documentation to determine whether: (1) Federal background investigations, inquiries of State and Tribal law enforcement agencies, and State criminal history repository checks were timely initiated; (2) completed background investigations were timely adjudicated; and (3) staff with pending background investigations were supervised.

We did not assess the overall internal control structure of the Hospital. Rather, we limited our review of internal controls to those applicable to our audit objective. Specifically, we assessed the design, implementation, and operating effectiveness of the Hospital's standard operating procedures for background investigations and provisional staff supervision. Our assessment would not necessarily disclose all material weaknesses in the Hospital's processes.

We conducted our audit work at the Gallup Indian Medical Center in Gallup, NM and remotely from July 2023 through July 2024.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal requirements and IHS's policies and procedures for conducting background investigations of staff in contact with Indian children and for supervising provisional staff;
- held discussions with IHS Headquarters, Navajo Area Office, and Hospital staff to gain an understanding of their internal controls and oversight processes for background investigations and supervision of Hospital staff;
- contacted DCSA personnel to gain an understanding of their role in the background investigation process and obtain related documentation, including completed background investigations;
- reviewed background investigation and supervision documentation for a non-statistical sample of 50 staff members selected from a sampling frame of 992 individuals in

contact with Indian children at the Hospital during our audit period to evaluate compliance with Federal requirements;³⁵ and

- discussed the results of our audit with IHS Headquarters and Navajo Area Office staff.

We conducted this performance audit 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.

³⁵ Using OIG/OAS statistical software, we randomly selected 50 staff members that consisted of staff who had been working at the Hospital for: 5 years or less (22 staff); 6 to 10 years (9 staff); 11 to 15 years (7 staff); 16 to 20 years (5 staff); and more than 20 years (7 staff). The 50 staff members consisted of 42 Federal employees, 4 contractors, and 4 volunteers.

APPENDIX B: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<i>Two Tribes in Oklahoma and Their Health Programs Did Not Meet All Federal and Tribal Requirements for Background Investigations on Individuals in Contact With Indian Children</i>	<u>A-01-20-01505</u>	1/12/2024
<i>Crow/Northern Cheyenne Hospital-an IHS-Operated Health Facility-Did Not Timely Conduct Required Checks of Staff and Supervise Certain Staff</i>	<u>A-02-21-02004</u>	4/21/2023
<i>Three Tribes in New England and Their Health Programs Did Not Conduct Required Background Investigations on All Individuals In Contact With Indian Children</i>	<u>A-01-20-01504</u>	11/4/2022
<i>Tribal Health Programs: Concerns About Background Verifications for Staff Working With Indian Children</i>	<u>A-01-20-01500</u>	8/28/2020
<i>The Penobscot Indian Nation Did Not Meet All Federal and Tribal Health and Safety Requirements</i>	<u>A-01-17-01502</u>	11/26/2018
<i>The Passamaquoddy Tribe’s Pleasant Point Health Center Did Not Always Meet Federal and Tribal Health and Safety Requirements</i>	<u>A-01-17-01500</u>	7/30/2018

APPENDIX C: FEDERAL REQUIREMENTS

Federal Requirements for Background Investigations and Supervision

The Indian Child Protection and Family Violence Prevention Act (ICPFVPA), P.L. No. 101-630 § 408 imposes requirements for character investigations on both IHS and on Tribes. The ICPFVPA requires IHS to: (1) compile a list of all positions in IHS that have duties or responsibilities that involve regular contact with or control over Indian children; (2) conduct a character investigation for each individual employed or being considered for these positions; and (3) prescribe minimum standards of character that each person employed or being considered in these positions must meet.

Federal regulation at 42 CFR Part 136, Subpart K establishes minimum standards of character for Federal employees working in IHS including standards of character to ensure that individuals having regular contact with or control over Indian children have not been convicted of certain types of crimes as mandated by section 408 of the ICPFVPA. Minimum standards of character include efficiency as mandated by section 408 of the ICPFVPA, fitness as mandated by section 231 of the Crime Control Act of 1990 (Crime Control Act), and suitability standards as mandated by 5 CFR Part 731.

The minimum standards of character are considered met only (emphasis added) after an individual has been the subject of a satisfactory background investigation. The background investigation must include a: (1) review of the individual's trustworthiness through inquiries with references, places of employment, and education; (2) criminal history background check that includes a fingerprint check through the Criminal Justice Information Services Division of the FBI and inquiries through State and Tribal law enforcement agencies for the previous 5 years of residence listed on the individual's application; and (3) determination as to whether the individual has been found guilty of or has entered into a plea of nolo contendere or guilty to any felony offense or any of two or more misdemeanor offenses under Federal, State, or Tribal law involving crimes of violence; sexual assault, molestation, exploitation, contact, or prostitution; crimes against persons; or offenses committed against children (42 CFR § 136.406).

Federal regulation at 5 CFR § 731.101 establishes criteria and procedures for making determinations of suitability and for taking suitability actions regarding employment in covered positions. Suitability determinations are those determinations based on a person's character or conduct that may have an impact on the integrity or efficiency of the service.³⁶ In addition to the minimum standards of character, this regulation requires that all individuals seeking placement in a position that involves regular contact or control over Indian children are subject to suitability as a condition of Federal employment.

³⁶ Suitability determinations are decisions made by DCSA (formerly OPM) or a sponsoring agency with delegated authority that a person is or is not suitable for employment within the Federal government or specific Federal agencies. Suitability actions are outcomes taken by DCSA or an agency with delegated authority.

The Crime Control Act, P.L. 101-647 § 231 requires each agency of the Federal Government and every facility operated by the Federal Government or operated under contract with the Federal Government that hires or contracts for hire individuals involved with the provision to children under the age of 18 of childcare services to ensure that all existing and newly hired employees undergo a criminal history background check. The term “childcare services” means child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services.

Section 231 of the Crime Control Act requires that a criminal history background check must be: (1) based on a set of employee’s fingerprints obtained by a law enforcement officer and on other identifying information; (2) conducted through the Criminal Justice Information Services Division of the FBI and through the State criminal history repositories of all States that an employee or prospective employee lists as current or former residences in an employment application; and (3) initiated through the personnel programs of the applicable Federal agencies.

IHS must use the DCSA (formerly OPM) to conduct background investigations for Federal employees and designate qualified security personnel to adjudicate the results of background investigations (42 CFR § 136.410).³⁷

IHS may provisionally hire individuals, prior to the completion of a background investigation if, at all times prior to receipt of the background investigation during which children are in the care of the individual, the individual is within the sight and under the supervision of a staff person and a satisfactory background investigation has been completed on that staff person (42 CFR § 136.417 and Indian Health Manual (IHM 3-36.2(E)(6)).

IHS must comply with all policies, procedures, criteria, and guidance contained in other appropriate guidelines, such as the OPM policies, procedures, criteria, and guidance (42 CFR § 136.413).

Pursuant to the IHM, all staff that have regular contact with or control over children must be screened through the Child Care National Agency Check with written inquiries for prior allegations of suspected child maltreatment as part of the recruitment-and-hiring process. This includes background checks consisting of past employment history, criminal, and child abuse registry (IHM 3-36.3).

³⁷ Adjudication is the process IHS uses to determine eligibility for placement or retention of individuals in positions involving regular contact with Indian children (42 CFR § 136.414).

APPENDIX D: INDIAN HEALTH SERVICE'S BACKGROUND INVESTIGATION PROCESS

PRE-EMPLOYMENT SUITABILITY PROCESS

The IHS Pre-Employment Suitability Process SOP, in effect since June 2018, requires all applicants and employees of IHS, including contractors and volunteers, to undergo a background investigation to determine if they meet the suitability or fitness requirements for employment, or are eligible for access to Federal facilities, automated systems, or classified information. Suitability determinations require careful, objective, and complete examination of all relevant information, both favorable and unfavorable, to determine if the person's past or current conduct adversely impacts, or indicates a likelihood for adverse impact, on the integrity or efficiency of the agency. The pre-employment determination is not a substitute for the required background investigation. In all cases, all individuals must have the pre-employment process completed prior to entering on duty.

After a tentative job offer has been accepted by the applicant, the pre-employment suitability process begins. The process for both permanent hires (121 days or more) and temporary hires (120 days or less) is similar; however, temporary hires do not undergo a background investigation as extensive as those for permanent hires and therefore, do not complete the application process using e-QIP.³⁸

IHS's Personnel Security Representative (PSR) and/or Human Resources Staff are responsible for (1) verifying that pre-employment suitability and background investigations are completed correctly, (2) providing guidance to all parties involved with the completion of the pre-employment suitability process, (3) initiating and finalizing the pre-employment suitability process, (4) initiating applicants into the Security Manager system for investigation processing and tracking,³⁹ and (5) responding to DCSA and/or NBIB investigation requests in a timely manner.

SUITABILITY ADJUDICATION PROCESS

Subsequent to receipt of the investigative report from DCSA, IHS determines whether the individual is suitable for Federal employment based on the information obtained, including the investigative report, and in accordance with suitability criteria at Title 5, CFR, Part 731.

³⁸ e-QIP is a web-based automated system designed to facilitate the processing of standard investigative forms used when conducting background investigations for Federal security, suitability, fitness, and credentialing purposes. The system allows the user to electronically enter, update, and transmit their personal investigative data over a secure internet connection to IHS.

³⁹ Security Manager is an electronic case management system implemented by HHS during January 2020 and is used to manage and track the background investigation process for all personnel including Federal employees, contractors, and volunteers. The system tracks from pre-appointment to final adjudication. All fingerprint records are contained in the system for adjudication.

All reports of investigation should be adjudicated within 90 days after receipt by the PSR and DCSA should be notified of IHS's suitability determination within that 90-day timeframe.

APPENDIX E: OVERVIEW OF DCSA'S ROLE IN THE BACKGROUND INVESTIGATION, ADJUDICATION, AND CLEARANCE PROCESSES

The sponsoring (employing or hiring) agency initiating the investigation is responsible for determining the appropriate level of investigation to be conducted based on the position's duties and responsibilities. After the sponsoring agency determines what type of background investigation is required, they may conduct the investigation themselves or they may request DCSA to conduct the investigation.

During the investigation, DCSA may conduct searches at law enforcement entities, courts, employers, educational institutions, creditors, and other record repositories. Friends, co-workers, landlords, family, and neighbors may be contacted to verify places of residence, employment, and education. Additionally, an investigator may interview the applicant to verify, expand upon and/or clarify the information provided on the investigative questionnaire. The investigators submit results of record searches and interviews through a report of investigation. Once the investigation is complete, the report is sent back to the sponsoring agency.

When the sponsoring agency receives the completed background investigation, they will review all contents of the investigation and make a suitability, fitness, and/or security decision based on the position the applicant is applying for, or currently holding. This decision determines whether the applicant is eligible for employment with, or on behalf of the Federal government, and/or eligible for access to classified information if the position requires a security clearance.

The table on the following page contains a general overview of the background investigation, adjudication, and clearance processes.

Table: Investigation, Adjudication, and Clearance Processes

Step 1: Questionnaire	An email notification from the sponsoring agency ⁴⁰ is sent to the applicant requesting the applicant to complete an investigative questionnaire in e-QIP. The applicant may be required to provide fingerprints.
Step 2: Submission	The completed questionnaire is released by the applicant to the sponsoring agency.
Step 3: Investigation	DCSA receives the questionnaire and begins the background investigation.
Step 4: Completion and Adjudication	The completed investigation is sent by DCSA to the sponsoring agency for a decision and the applicant is notified.
Step 5: Clearance Decision	If the applicant's position requires clearance, a clearance decision is made by the sponsoring agency.
Step 6: Continuous Evaluation/Vetting	The applicant will be enrolled in a continuous vetting program if needed for the position.

⁴⁰ The sponsoring agency is the employing/hiring agency, in this case IHS.

APPENDIX F: SUMMARY OF FINDINGS FOR EACH SAMPLED STAFF MEMBER

Findings									
Hospital Did Not Meet Federal Requirements For Conducting Background Investigations of Staff in Contact with Indian Children									Supervision of Provisional Staff Not Documented
Staff Sample Number	Background investigation not adjudicated w/in 90 days of the completion of investigation	Hospital did not maintain OF 306 documentation	Federal background investigation was not initiated w/in 14 days of individual's start date	Hospital did not follow up with DCSA on the status of inquiries of Tribal law enforcement agencies	Federal background investigations not initiated	Hospital did not meet requirements to complete a State Criminal History Repository check	Hospital did not conduct a reinvestigation within 5 years	Hospital did not document supervision in accordance with Federal requirements	Total No. of Findings for Each Staff
1				X				X	2
2	X		X	X				X	4
3	X	X		X					3
4	X							X	2
5	X	X	X					X	4
6		X	X	X				X	4
7	X	X	X	X				X	5
8	X		X	X				X	4
9	X			X				X	3
10		X			X			X	3
11					X			X	2
12									0
13	X							X	2
14	X							X	2
15	X	X		X		X		X	5
16	X	X	X					X	4

Findings									
Hospital Did Not Meet Federal Requirements For Conducting Background Investigations of Staff in Contact with Indian Children								Supervision of Provisional Staff Not Documented	
Staff Sample Number	Background investigation not adjudicated w/in 90 days of the completion of investigation	Hospital did not maintain OF 306 documentation	Federal background investigation was not initiated w/in 14 days of individual's start date	Hospital did not follow up with DCSA on the status of inquiries of Tribal law enforcement agencies	Federal background investigations not initiated	Hospital did not meet requirements to complete a State Criminal History Repository check	Hospital did not conduct a reinvestigation within 5 years	Hospital did not document supervision in accordance with Federal requirements	Total No. of Findings for Each Staff
17	X							X	2
18	X	X		X				X	4
19		X	X					X	3
20		X	X					X	3
21								X	1
22	X	X		X					3
23	X							X	2
24	X							X	2
25					X			X	2
26					X			X	2
27					X			X	2
28	X	X	X	X				X	5
29		X	X					X	3
30		X						X	2
31	X	X	X	X				X	5
32	X	X	X					X	4
33	X		X					X	3

Findings									
Hospital Did Not Meet Federal Requirements For Conducting Background Investigations of Staff in Contact with Indian Children								Supervision of Provisional Staff Not Documented	
Staff Sample Number	Background investigation not adjudicated w/in 90 days of the completion of investigation	Hospital did not maintain OF 306 documentation	Federal background investigation was not initiated w/in 14 days of individual's start date	Hospital did not follow up with DCSA on the status of inquiries of Tribal law enforcement agencies	Federal background investigations not initiated	Hospital did not meet requirements to complete a State Criminal History Repository check	Hospital did not conduct a reinvestigation within 5 years	Hospital did not document supervision in accordance with Federal requirements	Total No. of Findings for Each Staff
34			X	X				X	3
35	X	X	X	X				X	5
36	X	X	X	X				X	5
37	X			X				X	3
38								X	1
39		X	X					X	3
40	X	X	X	X		X		X	6
41	X							X	2
42	X	X		X					3
43	X					X		X	3
44	X	X						X	3
45	X		X	X				X	4
46	X		X					X	3
47	X							X	2
48									0
49									0
50						X	X	X	3

Findings									
	Hospital Did Not Meet Federal Requirements For Conducting Background Investigations of Staff in Contact with Indian Children							Supervision of Provisional Staff Not Documented	
Staff Sample Number	Background investigation not adjudicated w/in 90 days of the completion of investigation	Hospital did not maintain OF 306 documentation	Federal background investigation was not initiated w/in 14 days of individual's start date	Hospital did not follow up with DCSA on the status of inquiries of Tribal law enforcement agencies	Federal background investigations not initiated	Hospital did not meet requirements to complete a State Criminal History Repository check	Hospital did not conduct a reinvestigation within 5 years	Hospital did not document supervision in accordance with Federal requirements	Total No. of Findings for Each Staff
Total	31	22	20	19	5	4	1	44	146

APPENDIX G: IHS COMMENTS



DEPARTMENT OF HEALTH & HUMAN SERVICES

Public Health Service

Indian Health Service
Rockville MD 20857

DATE: August 8, 2024

TO: Amy J. Frontz, Deputy Inspector General for Audit Services

FROM: Director

SUBJECT: Indian Health Service Response to Draft OIG Report: *Gallup Indian Medical Center—an IHS-Operated Health Facility—Did Not Timely Conduct Required Background Checks of Staff and Supervise Certain Staff*, (A-02-23-02006), dated July 9, 2024

We appreciate the opportunity to provide our official comments on the draft Office of Inspector General (OIG) report entitled, *Gallup Indian Medical Center—an IHS-Operated Health Facility—Did Not Timely Conduct Required Background Checks of Staff and Supervise Certain Staff*. The Indian Health Service (IHS) concurs with four OIG recommendations and partially concurs with one OIG recommendation below.

OIG Recommendation No. 1: The IHS concurs with this recommendation.

OIG recommends the Indian Health Service work with Gallup Indian Medical Center and the Navajo Area Office to take action to complete background investigations, including adjudication, for staff members identified in this report as not having a satisfactory background investigation.

Planned and completed actions:

The IHS has taken action to complete background investigations for staff identified in the report as not having an adjudicated background investigation. As of July 17, 2024, most IHS staff identified in the report have been processed with a fully adjudicated background investigation, with the exception of nine staff members. Of those nine staff members, two staff members currently have investigations pending with Defense Counterintelligence Security Agency (DCSA), and seven staff members separated from the IHS in 2022, 2023, and 2024 prior to the receipt of a closed background investigation. The IHS anticipates reaching a final adjudication for the remaining two staff members no later than 90 days after receipt of the closed background investigation.

OIG Recommendation No. 2: The IHS concurs with this recommendation.

OIG recommends the Indian Health Service work with Gallup Indian Medical Center and the Navajo Area Office to monitor background investigations to ensure all elements are completed within required timeframes in accordance with Federal requirements.

Planned and completed actions:

The IHS has completed the following actions to address this recommendation. In June 2018, the IHS issued a standard operating procedure (SOP) that specifies pre-employment suitability requirements. The Agency subsequently updated the pre-employment suitability requirements SOP in 2020, 2022, and 2024 to address improvements and updates. The IHS deployed the Security Manager Tracking System in January 2020, which has improved compliance with background check requirements. On October 1, 2023, Electronic Questionnaires for Investigations Processing (e-QIP) was replaced by the more efficient National Background Investigation Service/Electronic Application (NBIS/eApp) system. The NBIS/eApp system contains the required investigative standard forms used to input the necessary information to process personnel background investigations. The NBIS/eApp is part of a Federal-wide initiative designed to provide a single-page solution based on modern, simple design elements to make the background investigation application process intuitive and easier to use. The modernized NBIS/eApp application allows staff to initiate investigations and monitor activity more efficiently.

The 12 IHS Areas and associated Service Units must adhere to the procedures outlined in the pre-employment suitability requirements SOP. The SOP requires background investigations, which include a fingerprint check through the Criminal Justice Information Services Division of the Federal Bureau of Investigation (FBI), and applicable State criminal history repository checks, which are inquiries into State and Tribal law enforcement agencies, to be initiated and submitted to the DCSA before a new hire can be pre-cleared to begin employment.

In September 2021, the IHS issued the Special General Memorandum (SGM) 21-02, Personnel Security/Suitability Determinations, and two SOPs addressing the personnel security adjudication process and unfavorable background investigation determination actions. The SGM 21-02 was issued to remind all IHS staff that a condition of their employment with the IHS requires adherence to the background investigation and re-investigation process. Failure to obtain or maintain a favorable background investigation may result in termination of employment with the IHS. The two SOPs accompanying IHS SGM 21-02 outline processes for adjudicating background investigations within 90 days of receipt from the DCSA and the process for handling unfavorable background investigations.

In 2022, the IHS implemented monthly community of practice conference calls with all Area Personnel Security Specialists to provide important updates and reminders on adherence to the established IHS SOPs and systems. The monthly IHS community of practice conference calls continue to occur.

The IHS Navajo Area Office Personnel Security staff are adhering to the SOPs referenced above to meet investigation requirements. The IHS Navajo Area Office continues to work with IHS Headquarters to ensure the adjudication of investigations are completed. The Security Manager Tracking System was implemented for all IHS Area staff to more effectively monitor background investigation activity across the Agency.

OIG Recommendation No. 3: The IHS partially concurs with this recommendation.

OIG recommends the Indian Health Service work with Gallup Indian Medical Center and the Navajo Area Office to update standard operating procedures for background investigations to include completing background investigations for temporary staff in accordance with Federal requirements.

Planned and completed actions:

Prior to 2020, the IHS developed a significant backlog of background investigations requiring final adjudication due to a lack of staff and insufficient case management capabilities. Since 2020, IHS Personal Security staff numbers have expanded significantly, resulting in enhanced efficiency and improved timelines. The 2020 deployment of the Security Manager Tracking System was pivotal as it now serves as the primary source for adjudicative metrics within the IHS. As of September 2022, there were 5,373 background investigation cases pending adjudication, with 4,654 cases exceeding the Office of Personnel Management’s 90-day requirement for final adjudication. To address this backlog, the IHS developed a comprehensive plan of action that included daily reporting of background investigation metrics to ensure progress. The IHS can report that as of September 30, 2023, the background investigation adjudicative case backlog is fully resolved. All background investigation cases have either been adjudicated or are now part of the routine caseload.

The IHS concurs with the OIG recommendation to the extent the Agency is able to meet the Federal requirements. Term hires who are appointed to the IHS for 120 days or less are not active with the Agency long enough to conduct a full adjudicative review. Background investigations can take months for DCSA to conduct. Subsequent to DCSA’s completion, the IHS 90-day adjudicative requirement, in conjunction with DCSA’s investigative timeframe, exceeds the 120-day length of service for IHS term staff. Meeting the Federal requirements for term hires during the initial 120-day appointment is not possible due to the time constraints to complete a full background investigation. Full background investigations are processed for all term employees who continue their service beyond their initial 120-day appointment.

Term employees must comply with other IHS vetting measures at the beginning of their employment, including FBI fingerprint checks, Special Agreement Checks, and sight-and-supervision practices with dedicated on-site chaperones. To complement sight-and-supervision practices, the IHS developed a Background Investigation Identification Requirement policy that is currently in final review. The IHS anticipates approval of the new policy by the end of 2024, with an implementation plan to follow.

The IHS is committed to maintaining rigorous and continuous compliance with Federal regulations and Public Law 101-630, underscoring the Agency’s unwavering dedication to patient safety, particularly for the most vulnerable populations. The IHS will collaborate closely with the Gallup Indian Medical Center and the IHS Navajo Area Office to ensure term hires are vetted to ensure the safety and security of our patients.

OIG Recommendation No. 4: The IHS concurs with this recommendation.

OIG recommends the Indian Health Service work with Gallup Indian Medical Center and the Navajo Area Office to determine which staff members in contact with Indian children currently have a pending background investigation and take immediate action to supervise these staff members when children are in their care and adequately document such supervision.

Planned and completed actions:

The IHS developed a Background Investigation Identification Requirement policy that is currently in final review and is estimated to be completed by the end of 2024. The purpose of the new policy is to establish an identification card process to visually identify IHS staff and contractors without a favorably adjudicated background investigation and ensure these staff are within sight of a chaperone at all times when in contact with or otherwise exercising control over children under the age of 18. The policy will help ensure IHS adheres to sight and supervision requirements for staff with pending background investigations.

OIG Recommendation No. 5: The IHS concurs with this recommendation.

OIG recommends the Indian Health Service work with Gallup Indian Medical Center and the Navajo Area Office to follow through on its plans for an agencywide process to facilitate compliance with the sight and supervision requirements for staff with pending background investigations, including documentation that supervision actually occurs.

Planned and completed actions:

As noted above, the IHS Background Investigation Identification Requirement policy is estimated to be completed by the end of 2024. The IHS will work with the 12 IHS Areas to ensure full, consistent compliance with the sight and supervision requirements for staff with pending background investigations.

Thank you for the opportunity to review and comment on this draft report. Please refer any questions you may have regarding our response to Mr. Benjamin Smith, Deputy Director, IHS, by email at Benjamin.Smith@ihs.gov.

Roselyn Tso
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Roselyn Tso



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