

# Congress of the United States

## Washington, DC 20510

May 27, 2020

Rear Admiral Michael Weahkee  
Director  
Indian Health Service  
5600 Fishers Lane  
Rockville, MD 20857

Dear Admiral Weahkee:

We write concerning reports about large numbers of possibly substandard KN95 respirator masks supplied to Indian Health Service (IHS) hospitals serving the Navajo Nation in New Mexico and Arizona under a \$3 million federal procurement contract with Zach Fuentes LLC.<sup>1</sup> You committed to providing details on the circumstances of procurement and supply of these masks on a May 23rd call with the New Mexico congressional delegation.

Accordingly, we request a full report, including a full listing of the facilities that were scheduled to receive the masks, and answers to the following:

1. Under what circumstances did IHS become aware of and enter into a contract with Zach Fuentes LLC? What safeguards did IHS deploy to ensure that this new contractor was qualified and able to meet the terms of the contract?
2. Did IHS verify that the KN95 masks supplied by Zach Fuentes LLC met all Food and Drug Administration standards?
3. What measures did IHS take to ensure personal protective equipment (PPE) provided under this contract was not faulty before distribution and use?
4. What portion of the masks sent to IHS under this contract has the IHS distributed to date? Has IHS recalled those masks or determined if any masks resulted in the potential exposure of IHS or Tribal medical personnel?
5. Does IHS plan to return the faulty masks or seek a refund from the contractor?
6. What protocols are in place to guard against IHS procuring substandard PPE? How does IHS generally prevent against substandard PPE from entering the field?
7. How will IHS ensure that the Navajo Service Area has sufficient PPE to replace the unsuitable masks? What is IHS headquarters doing more generally to meet current PPE demand with sufficient and quality supplies?

With nearly 5,000 positive cases and over 150 deaths, the Navajo Nation has reported the highest per capita COVID-19 infection rate in the U.S. The IHS facilities serving the Tribe are in dire

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<sup>1</sup> *The Feds Gave a Former White House Official \$3 Million to Supply Masks to Navajo Hospitals. Some May Not Work*, available at <https://www.propublica.org/article/the-feds-gave-a-former-white-house-official-3-million-to-supply-masks-to-navajo-hospitals-some-may-not-work>

need of PPE to combat the virus and ensure medical personnel are protected from potential exposure. Accordingly, we are also concerned by reports that the federal contract to supply PPE to the Navajo IHS Service Area was awarded to a company established by a former senior official in the White House with limited competitive bidding and no prior federal contracting experience.

We therefore additionally request that the contracting officer who executed the contract provide a briefing to our offices as soon as possible. We are particularly interested in learning the circumstances in which the contract was awarded with the IHS only 11 days after it was created to sell PPE in response to the coronavirus, and whether IHS policies and procedures and federal acquisition regulations were followed.

As Tribes in New Mexico and Arizona continue to battle this deadly virus now and into the future, it is critical that IHS follows all federal acquisition procedures to ensure the facilities that serve Tribes receive quality materials and supplies they need to keep patients and personnel safe. We look forward to your prompt response.

Sincerely,



Tom Udall  
U.S. Senator

/s/

Martin Heinrich  
U.S. Senator



Kyrsten Sinema  
U.S. Senator



Deb Haaland  
U.S. Representative

/s/

Ben Ray Lujan  
U.S. Representative



Xochitl Torres Small  
U.S. Representative



Raúl Grijalva  
U.S. Representative



Ruben Gallego  
U.S. Representative



Tom O'Halleran  
U.S. Representative

cc: HHS Deputy Secretary Hargan  
Acting HHS Inspector General Christi Grimm  
Bob Westbrook, Executive Director, Pandemic Response Accountability Committee