

UNITED STATES DEPARTMENT OF THE TREASURY

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TREASURY TRIBAL ADVISORY COMMITTEE

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WEDNESDAY
MAY 15, 2024

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The Advisory Committee met in the Cash Room, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW, Washington, D.C., at 1:00 p.m., Ron Allen, Chair, presiding.

PRESENT

W. RON ALLEN, Chair
CHIEF ALLAN, Member
RODNEY BUTLER, Member
WILL MICKLIN, Member
MARTIN TUCKER, Member
CORA WHITE HORSE, Member

ALSO PRESENT

MARILYNN MALERBA, U.S. Treasurer, U.S.
Department of the Treasury
FATIMA ABBAS, Designated Federal Officer;
Director, Office of Tribal and Native
Affairs, U.S. Department of the Treasury
WALLY ADEYEMO, Deputy Secretary, U.S. Department
of the Treasury
STEPHANIE BLAND, Acting Associate Chief Counsel,
Passthroughs and Special Industries,
Internal Revenue Service (IRS)
LAUREL BLATCHFORD, Chief Implementation Officer
for the Inflation Reduction Act, U.S.
Department of the Treasury

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LISA GOMEZ, Assistant Secretary, Employee
Benefits Security Administration, U.S.
Department of Labor
PHYLLIS GRIMES, Acting Chief Privacy Officer,
IRS
EDWARD KILLEN, Commissioner, Tax Exempt &
Government Entities, IRS
NEIL MacBRIDE, General Counsel, U.S. Department
of the Treasury
SCOTT VANCE, Associate Chief Counsel, Income
Tax Accounting, IRS
LAURA WARSHAWSKY, Deputy Associate Chief
Counsel, Employee Benefits, Exempt
Organizations, and Employment Taxes, IRS
CARMEN ZUCKER, Program Manager, Office of Indian
Tribal Governments, IRS

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P-R-O-C-E-E-D-I-N-G-S

1:00 p.m.

MS. ABBAS: Good afternoon, everyone.

My name is Fatima Abbas. I'm the Designated Federal Officer for the Treasury Tribal Advisory Committee and just calling the meeting to order.

The Deputy Secretary is on his way, so we are going to do a very short roll call that's just going to consist of me acknowledging that we have quorum of the TTAC members.

And we're going to turn to Councilwoman Cora White House for a tribal opening, if those are comfortable, if you would like to stand.

Cora?

MS. WHITE HORSE: (Native language spoken.) Thank you for bringing us together today. Help to guide us through the meeting. Help to keep our people in our hearts and our minds when we make decisions. And please allow us your traveling mercies for our journeys home after. (Native language spoken.)

MS. ABBAS: Thank you, Councilwoman.

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So, you all should have the agenda for today's meeting. We have a series of invitees and we also have a lot of federal partners who are here to listen to the tribal feedback at various times.

And so just as we're awaiting for the Deputy Secretary, just to give an overview of folks who are in the room, we have the White House Council on Native American Affairs, the Department of Interior. And then on the Treasury side we have the general counsel next to me. We will have the Deputy Secretary shortly. We have Commissioner Killen with the IRS Tax-Exempt & Government Entities, various members of the Chief Counsel's Office, Laurel Blatchford, who is the IRA Chief Implementation Officer, and then special invitees from the Department of Labor.

And so after we go through some of the remarks we will be breaking to allow folks to leave.

So just want to give everybody kind of a heads up on the musical chairs. And I'll just turn to Chief Malerba if she has any opening remarks as

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we are waiting for the Deputy Secretary.

MS. MALERBA: Thank you, Fatima.
(Native language spoken.) Greetings, everyone.
My name is Chief Many Hearts Lynn Malerba from the Mohegan Tribe. I am pleased to welcome you all to the second Treasury Tribal Advisory Committee of 2024.

And I see our Deputy Secretary is here.

So while he is getting comfortably seated I just wanted to thank our team for the work in every aspect of Treasury policy that touches tribes: Director Fatima Abbas; Policy Advisors John Jackson, who is here with us in the room; Jen Parisien and Jim Colombe, who are on Zoom; and Political Appointee Emery Real Bird, who joined us in February, also a policy advisor working together with the Office of Tribal and Native Affairs.

And so we'll give Deputy Secretary a minute to catch his breath and then provide his remarks. He has a very tight time frame today, so we want to make sure that we utilize his time

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efficiently. Thanks.

MR. ADEYEMO: Well, let me thank the Treasurer and also Fatima for their leadership, but it's good to see all of you again. Thank you for your commitment to service and for the ways in which you advise us.

It's a privilege to meet with the Treasury Tribal Advisory Committee once again. We appreciate your collective expertise and commitment to government-to-government engagement.

Today I want to briefly highlight the work we're doing together. Last year the advisory committee provided Treasury with a report on challenges tribal governments experience regarding the maintenance of pensions. The committee requested that Treasury engage in consultation with the report, which we held in March.

In response to the committee's request at the January public meeting we're also holding a consultation this Friday on the Notice of

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Proposed Rulemaking for Long-Term Part-Time Employee Rules for Cash and Deferred Arrangements under Section 401(k). A mouthful, but an important mouthful because what it means practically is the idea that people who have saved money towards their retirement have access to those funds going forward in a way that doesn't unnecessarily subject them to taxes and penalties, and it's something that we're focused on working on in consultation with your tribal governments.

Beyond these important pension issues we know the committee has raised multiple important tax issues. First, I know tribes are awaiting the promulgation of the Tribal Tax Guidance from the implementation of the Tribal General Welfare Exclusion Act. And I know you've been waiting too long and I want to make clear to you that we are continuing to work on these matters. And I can affirm that it remains our goal to advance tax guidance that recognizes the distinct trust and treaty relationships between tribal nations and the United States by this summer.

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We have also been focused on increasing tribal access to Inflation Reduction Act tax credits. The IRA includes 720 million in direct set-asides to tribal nations and can unlock billions in financing for tribal energy development through tax credits.

Typically governments are ineligible for tax credits because they do not have tax liability. The IRA however removes this barrier through a process known as elective pay, or commonly called direct pay. This historic provision allows tribes to receive a tax credit for a qualifying energy project ranging from a utility-scale energy development to installation of an electric charging station at a tribal hotel.

To date we've hosted six tribal consultations on proposed IRA guidance and participated in over 30 tribal engagement sessions to provide training on these new opportunities.

We strive to integrate tribal feedback in the guidance wherever possible. For example, we issued elective pay final rules in March 2024,

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and in response to tribal feedback confirmed that certain entities chartered under the Indian Reorganization Act and the Oklahoma Indian Welfare Act are eligible for elective pay.

Further, in response to feedback on the challenges of self-financing projects, we proposed rules on certain joint ownership arrangements that would provide tribes and other elected entities more financing options and more clarity and flexibility. We included a tribal FAQ pattern in this guidance and recently held tribal consultations and look forward to review of tribal feedback.

In addition to our tax work I want to thank the Treasury Advisory Committee and tribal leaders for their partnership on the state and local Fiscal Recovery Fund in the American Rescue Plan Act. This year is the obligation deadline for the program's historic \$20 billion in tribal set-asides. At the last TTAC meeting members shared how tribes are working towards obligation and providing feedback on clarifications that were

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needed regarding recipient obligations.

Last month Treasury released frequently asked questions that provide clarity for all eligible governments on the obligation deadline and also released a tribal FAQ that tailors this guidance for tribes based on their distinct governmental structures.

I want to make clear to everyone that currently there is a resolution under consideration in Congress that would overturn Treasury's guidance on obligations related to state and local recovery funds. That guidance gave state, local, territorial, and tribal governments the clarify and flexibility they needed to work towards completing projects from expanding internet access to building affordable housing. If the guidance is overturned by Congress, critical projects such as hundreds of tribal infrastructure projects may not have the funding they need. It's crucial to tribal nations to be able to move these projects forward to improve the lives of their citizens.

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Our work on state and local funding and on IRA demonstrate that government-to-government engagement with tribal nations is not just mandatory federal policy. It is good policy. Good policy that makes programs more equitable make federal assistance accessible. We're committing to bring this approach to our work on long-standing tribal tax issues, and I look forward to hearing from you today. Ultimately, what we are committed to doing is making progress that is much needed to further enhancing our government-to-government relationships and making sure that tribal nations and tribal communities have access to the economic opportunity that their citizens deserve.

With that, I'm happy to stay for a few minutes and to have a conversation with you. Thank you.

MS. ABBAS: Thank you, Deputy Secretary.

I'm going to go to the TTAC for comments of Chairman Allen, Ron Allen.

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CHAIR ALLEN: Thanks, Fatima.

And, Deputy Secretary, thank you for being here and thank you for those remarks.

Without a doubt, when the GWE legislation was passed in 2014, 10 years ago, we had greater anticipation of moving this agenda forward more aggressively, if you will. And of course the pandemic caused some problems. And regardless we are here.

I think that the thing I would -- opening of our remarks from our TTAC advisors is that we want to continue to remind the Administration that we have a political relationship. That's what government to government means. We're deeply imbedded in the Constitution and recognize our unique standing and jurisdiction and authority.

So now we are here, as we often say, pulling the curtain back and sitting at the table to figure out exactly how the complexity of Treasury and the IRS implements this relationship to help the tribes become independent,

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self-reliant nations within our nation. And there's a lot to that agenda and a lot to how to make it happen.

Without doubt, the General Welfare exemption provisions and regulations that will be coming forward is important, but fundamentally we have to keep remembering government to government means consultation. It means engaging us before policy, regulations, et cetera is happening so that we can have a meaningful difference, not an afterthought policy, afterthought comment. And that is going to be critical.

We want to be self-reliant. I think I said to you last time you were here at our last meeting, actually a couple meetings, if you will, is that when the federal government provides around 31-32 billion a year for all federal programs -- and we deeply appreciated the resources, the extra resources we got from CARES, from the American Rescue Plan and so forth, the Inflationary Reduction programs. That made a difference and it helped. It was a nice bump to help us move our

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agenda forward, but we have a long ways to go.

So 31, 32, 40 billion sounds like a lot when you -- but when you spread it out in 574 Indian Nations across America, it's not a lot. And the need is exponentially higher than that. So we're here to try to help clean up the relationship and the process of tribal governments and recognize our jurisdiction and our authority to become self-reliant.

So there's a lot to that. There's a lot under that umbrella. We know that it takes a team to make it work and work well. As we have pulled back the curtain to see how does the Treasury and IRS work, we discover there's another curtain.

And so we want to pull all curtains back so that we can get -- we can clean up the laws and the regulations so that the tribes can move our agenda forward to help our society and our economy be effective and resourceful and that we're making a difference. And we need you as partners, as you have said, to help make that happen. So thank you.

MS. ABBAS: Thank you, Chairman Allen.

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We're going to go next to Chairman Butler.

MR. BUTLER: (Native language spoken.)

Good afternoon, all of my friends. I'm glad to be here once again. Thank you, Treasury Chief Malerba, Deputy Secretary Adeyemo, and Treasury leadership for the progress you have made investing in Treasury's tribal relations.

Deputy Secretary, it's great to see you once again and thank you for committing your time here today and to Indian Country.

For the record, (Native language spoken) Rodney Butler. I serve as the Chairman of the Mashantucket Pequot Tribal Nation. I'm also on the boards of the United South and Eastern Tribes, the National Congress of American Indians, the Indian Gaming Association, and I was recently elected as the president of the Native American Financial Officers Association. So long title on my door.

(Laughter.)

MR. BUTLER: But, that being said,

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recognition of our inherent sovereignty and self-determination has been central to federal law and policy for the last five decades. In December President Biden signed Executive Order 14112 requiring agencies to maximize tribal nations' access to federal funding while reduced administrative burdens and promoting self-determination in determining how best to use the funding that we are owed as a result of trust and treaty obligations.

While the President calls for vast improvements in funding delivery to tribal nations, the IRS continues to evaluate how to siphon away the revenue we generate to provide for our people. This is an extreme contradiction in the Executive Branch.

At each TTAC meeting we have asked the IRS Chief Counsel's Office for an update on progress in issuing guidance on the tax status of tribally-chartered corporations, guidance that we've been waiting on for 30 years. Despite recent and historic tribal consultation on this issue,

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numerous statements from the Administration supporting tribal economic development, and the restoration of tribal economies, and now an additional directive from the President, we remain without this guidance.

The issuance of this guidance is matter of governmental parity. Tribal nations should no longer be treated differently than state and local governments that regularly engage in business activities which the IRS deems exempt to fund programs, critical programs and services. Indeed, the unique government to government and trust relationship that tribal nations have with the federal government and the new executive order demands that the solution not limit in any way, but rather expand the tax exemption of tribal economic activity.

As an agency of the federal government the IRS must recognize its obligations to us as well as our governmental status. This includes promoting the growth of healthy tribal economies.

Instead it seems to be concerned whether it should

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undermine these obligations. The value of what the federal government has already taken is immeasurable: land, lives, and stolen children, and generations of children.

The Department of Interior and other federal agencies have recognized the impact of federal policy on tribal economies. The IRS has the ability to do the same and help right centuries of historic wrongs. This Administration recognized the need for expertise on tribal nations within Treasury and invested in a Tribal Affairs Office. This expertise needs to expand to legal expertise with proven experience in federal and Indian law that can help educate and opine on these issues in a way that gives us tribes real confidence that our issues are being understood.

We can see the product of this investment in better decisions. There are experts in this room, at DOI, and throughout Indian Country who can assist the IRS in developing a better understanding of our governmental status and the obligations it holds to support our sovereign

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growth.

There must be a unified approach to tribal economies within the Executive Branch and we ask the Treasury leadership to work with those experts to provide guidance that upholds the trust responsibilities to support tribal self-determination and self-governance, the restoration and growth of our economies, our right to protect the revenues we generate to provide services to our people.

Deputy Secretary, there is potentially limited time left in this administration and unfortunately that's not the case as it's been an incredible relationship that we have forged together, but finalizing the clarity on the tribal corporations along with the GWE regs in a way that fully respects tribal sovereignty will go a long way to confirming this Administration's steadfast commitment to Indian Country. Thank you for your time today.

MS. ABBAS: Thank you, Chairman Butler.

I know the Deputy Secretary does have a hard stop, so we're going to take one more TTAC member and then give the Deputy Secretary an opportunity for a response and then we'll continue to take TTAC members.

So, Councilwoman Cora White Horse.

MS. WHITE HORSE: Thank you. My name is Cora White Horse. I serve as the Treasurer of the Oglala Sioux Tribe. That's on the Pine Ridge Reservation. It's about 3.1 million acres in the southwest corner of South Dakota. We have about 54,000 tribal members right now, and babies born every day.

(Laughter.)

MS. WHITE HORSE: Our biggest problem is that we're very rural and very poor. We have about 80 percent unemployment on our reservation.

The federal government consistently underfunds its treaty and trust responsibility for Great Plains Tribes as well as every other tribe in the United States, which correlates to our citizens living in third world conditions. For example,

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although tribal members make up just 9 percent of South Dakota's population, tribal members account for 44 percent of all maternal deaths.

Despite our poverty tribal members continue to be targeted by the IRS. The situation is worse for individual Indians with land held in trust by the federal government, also known as allotments. In 1967 the IRS unanimously created a five-part test that explicitly requires a tribal citizen with allotted lands to prove that they are a non-competent Indian, or as the IRS' frequently asked questions put it, an Indian's inability to hold fee simple title to trust lands.

The IRS requires that the land is restricted and allotted and is held for individual non-competent Indians. The IRS also requires that the statute, treaty, or authority involved evinces congressional intent that the allotment be used as a means of protecting the Indian until such time as he becomes competent.

These comments are a direct quote published under the IRS Chief Counsel's Office from September 2021.

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The five-part test was created due to the Supreme Court case that IRS misinterpreted from the 1950s.

Since 1978 Congress and the federal government have been operating under the tribal self-determination era.

It's time the IRS updates its archaic guidance and consults with tribes on matters that affect tribal government. Congress has legislated numerous times since the IRS rule the income derived from allotted lands are tax-exempt for one simple reason: the treaty and trust status of the lands. IRS has had no experience on trust responsibility and tribal treaties in 1967. They still don't in 2024.

The Interior doesn't require allottees to show that they are non-competent for management of trust income, but the IRS has never updated its ruling to reflect reality. There are tribal allottees in this room and tribal students online who also have allotments.

In addition, just this Sunday, May 12th, the Washington Post published an article

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stating that IRS unilaterally kicked tribes and thus Native mothers out of the IRS Child Support Offset Program. That article went on to state in one example because of the IRS change non-Indian mothers are now getting the full tax refund while tribal mothers get no child support. The IRS did this without tribal consultation.

I want to point out here that I am one of the Native mothers who benefitted from the Child Support Program. We might not have received child support throughout the year, but once a year when he files for his income tax, we got the child support. Once a year. And that was only done not because we had a court order -- I mean, not because we were tribal members, but because our state at that time had a pretty good relationship. So they gave our tribal court orders full faith and credit in state court. So the state filed for tribes.

And I don't know if this is the place or if I should even state this, but we do not have a great relationship with our governor. And I am

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sure there are other tribes in the same situation, especially in South Dakota. And if she decides to push legislation to say, okay, no more full faith and credit for tribal court orders, we lose out totally. And those people, mothers and fathers who get the child support once a year won't get it at all.

The IRS may see this support as a simple task, but developing tribal court full faith and credit recognition by states, especially ours, take a concentrated effort and negotiations in tribal state relations. It's no surprise the IRS puts tribal tax guidance on the back burner when they still rely on archaic views in their tax guidance.

I'm going to first end by asking Treasury leadership to change your tax guidance that dehumanizes tribal citizens and creates taxes that are focused on taking from tribes and our citizens.

Second, I request that the Treasury leadership address why tax guidance are

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continuously an afterthought in the Chief Counsel's Office. The IRS must engage with tribes before making unilateral decisions that hurt tribal communities. We need to start that. We need to start engaging with each other. We are tribal governments. We are sovereign nations within a nation.

Everything that -- all the benefits that we get from being tribal nations were earned.

They were traded. They were traded for land, they were traded for lives, and they were traded for minerals and oil. And that needs to be remembered because we lost so much so everyone else would have a safe place to be. Thank you.

MS. ABBAS: Thank you, Cora.

I turn to the Deputy Secretary.

MR. ADEYEMO: So let me acknowledge that fundamentally there is so much more that we need to do at the Treasury Department. And I think part of that is what we've already started to do under the Treasurer's leadership, which is enhancing our engagement government to government

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with tribe as sovereign governments to make sure that you have a seat at the table to both provide us with advice, but to make sure that the things that we are doing helpful and moving in the right direction.

And I do want to acknowledge that while we have made progress we have not reached the level of perfection. And I think that that progress does matter. Ultimately making sure that we get the General Welfare guidance done as soon as possible does matter. What we've done in terms of unlocking the value of the IRA does matter.

Does this mean that we've done everything that we need to do? No. There's more that we need to do in terms of thinking about guidance through the IRS Chief Counsel's Office.

There's more that we need to do to make sure that we're consulting with tribes as we go along the way. But I do think that it's important that we acknowledge the progress that we've made, both with the members of this advisory committee, but with tribal governments at large.

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When you look at the American Rescue Plan, for example, it was one thing for Congress to approve the money and put it into the hands of tribal governments, but without the flexible guidance that we developed in consultation with your governments, government to government, it would have been harder for you to spend that money in ways that gave you the sovereignty and the ability to make decisions on your own about how you invest that money in your communities.

We have to do more of that going forward. And I want to say that my commitment, I know the Treasurer's commitment, is for us to do exactly that, to make sure that as we do the work at the Treasury Department, at the IRS, which is part of the Treasury Department, that we're doing it in consultation with you as government-to-government consultations, recognizing your sovereignty and the inherent rights that you possess because of that sovereignty and think through how we do our work in a manner that respects that and respects individuals in

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doing that.

I want to admit to the lack of perfection in the work that we've done to date and that we're going to continue to make mistakes, but part of our goal here is going to be to make sure that as we do the work we will do it transparently with you and in consultation.

I appreciate the fact that each one of you have so many other things and roles that you play in each one of your communities, but you are taking the time to be here, to serve here, to give us advice and to help us do our jobs better. And I want to tell you that we: I, the Secretary, the Treasurer, value that. And we know that because of your engagement it's put us in a placement where -- in a position where we can address these difficult issues that to your points have existed for too long in this country in terms of this relationship.

And as many of you know, this is the second time that I'm serving at the Treasury Department. I've spent the better part of a decade

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here and I know, because of the Treasurer's leadership, because we've created this office with Fatima, the way that we are conducting government-to-government relationships is fundamentally different here at the Treasury Department than it has been in the past. But that still isn't enough. We still have more progress to make.

And what I -- my ask is that you be our partner in doing that work, that you continue to give us good advice and to engage with us and to push us and to help us understand what the priorities are. The challenge we have, but the opportunity we also have is that there is so much work to do. And the key question that we have to answer for ourselves is how to sequence that work because we're not going to do it all at once. But we need to do the most important things first and work our way through the list of things that are necessary to make sure that we get the government-to-government relationships right.

So I want you to know that from the very

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top of our department we're committed to doing that, but we need your advice as we do it in order to make sure that as we go on this long journey of making sure that we put the government-to-government relationships in the right place with the Treasury Department that we are sequencing the work we do at Treasury, but also the work we do at the IRS in a way that has the most impact on these sovereign communities and nations.

So I want to thank you for your time and for having me today. I look forward to hearing the results of the rest of your meeting from the Treasurer and Fatima, but I want to end with my gratitude to each one of you for your continued engagement as part of this committee.

MS. ABBAS: Thank you so much, Deputy Secretary.

And we'll next go to Chairman Chief Allen.

CHIEF ALLAN: Thank you, everybody. I'm the Chairman for the Coeur d'Alene Tribe. I've

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been blessed. I've just been reelected to my eighth term in that capacity.

So, Chief, I'm sorry. It looks like you're going to be the one to have to listen to my wrath in my -- going on.

And I believe the law is clearly stated.

It says we were -- it was passed. We got it there and we need to act on it. And when I was a young boy I was taught either you work -- you can talk with your words or you can do action. And so far this is my second meeting and all I see is a lot of talk. It's nice talk. I love talk. I can talk with the best of them. And I want consultation, and I want this. And we understand all these things, but my message to you is to -- when you go back to your meetings and you're sending out the messages, the law is clear. I mean, we have to -- TTAC has not been consulted on all -- any of this stuff. We haven't even -- we got word today that this summer maybe. I'm hoping. But like I said, words -- a lot of talk, a lot of talk.

I want action.

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Tribes deserve action. Tribes have -- tribes are resilient. We're resilient people and any time there's been a roadblock been set up, tribe come up with a way to solve it. And we don't have the tax base like state governments and all these other governments that have a tax base, so any time we come up with something, then we got somebody saying can't do that. And it's an unfairness.

We're not asking for any special privilege. Tax-exemption. That's not a special privilege. There's special privileges -- there are tax exemptions for everybody. There's tax exemptions on our own reservation for timber companies, for farmers. Heck, you name it, there's a tax exemption for it.

So that's what I'm saying. We're not asking for any special favors or -- all we're saying is we are doing the job that the federal government put -- is owed to us. It's owed to us. We gave up -- like my colleague said, we gave up -- our ancestors gave up death. They died for that cause.

And so that's what we're here for.

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When I was -- got the opportunity to serve on the TTAC committee, I was like, yes, I want to get on there and be part of that and -- but like I said, I'm starting to -- it's just -- I've been doing this for not as long as Ron, but I've been -- 22, 23 years and it's like this is same old, same old. A lot of talk, but not a lot of action.

So that's the message you want you to send back to the folks is that the law is clear.

We need to get this General Welfare stuff taken care of. It's not a special privilege we're asking for. We're not ask -- heck, man, you want to talk about America and being -- Indian people have always called the -- answered the call. My dad was in Vietnam. He -- my uncles served in -- they -- we all -- they -- when they answered -- when the call comes, we answer it. And so like I said, we're not trying to -- un-American and say we're not asking for a tax break here. We're just asking what's owed to us and that's what we're doing. And we're doing the job of what the federal

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government should be doing.

And like I said, part of my -- I've been -- we've been blessed. I know some of my brother/sister tribes out there still struggle, but I wasn't going to sit around and wait for the federal government to come in and do things. So we had to start businesses. We got to start things. And that -- now we -- now the -- it's always somebody just making a phone call saying, hey, I think the tribes are -- have a -- they have an advantage over my company.

And so you got to separate your biases.

These folks on these -- they got to separate biases and really dig for the facts, because when they dig for the facts they're going to be surprised to find out that tribes have been doing this for a long, long time and it's -- like I said, it's not asking for a handout or a special privilege.

It's what's owed to us. So thank you, Chief, and I will end it at that. Thank you.

MS. ABBAS: Thank you, Chairman.

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And we're going to go to two more tribal leaders and then we'll have some follow-up comments.

Next we're going to go to Treasurer Martin Tucker, who's online.

MR. TUCKER: Good afternoon. Can you hear me?

MS. ABBAS: Yes.

MR. TUCKER: Great. I want to echo my TTAC colleagues in expressing that tribal governments and also tribal citizens should be treated with dignity and respect in the IRS guidance, especially, to kind of reemphasize what Chief Allan said, tribes are not the tribes they were when these policies were formed, when this guidance was written. Very different perspective now. And I think that's one of the things that we want to emphasize that the Treasury needs to lean into, learning what the current perspective should be and what our perspective is as a sovereign nation.

But that guidance is a baseline. And

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while it seems incredibly challenging even with IRS' historical interactions with tribe and citizens, I still have confidence that if we can reach the level of meaningful engagement -- I know Deputy Secretary used the word perfection. I don't know that we'll get there, but if we can reach the level of meaningful engagement between the TTAC and the tribes, and also Treasury, I think that change can occur. And we want to create that momentum and we want to create that progress.

I want to reintroduce myself quickly.

My name is Martin Tucker. I'm a new TTAC member.

This is my second meeting. I apologize for not being able to be there in person. I would have preferred to have been, and if possible I would have been. I just was not able to.

I serve as the chief financial officer of the Choctaw Nation of Oklahoma. That's in the southeastern corner of Oklahoma, or probably more easily to visualize is we're about an hour north of Dallas, Texas. That's where our headquarters is and that's where our tribe reservation is. We

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currently have 229,000 tribal members, so that makes us the third largest by population tribal nation that there is.

Back in 1831, the Supreme Court held that the federal government had a trust responsibility to tribal nations, but the Executive Branch, under Andrew Jackson, as you recall, forced our removal from our homeland on the Trail of Tears to where we are now in Oklahoma.

Our nation relies on commercial enterprises to generate governmental revenue precisely because of the fact -- and again, Councilwoman Cora White Horse did a great job of describing this, but precisely because our lands and everything that would have been our tax base were taken away from us the person who is consequently on the \$20 bill. Think about that.

So like many tribal citizens I know the hurt that a federal policy can cause and has caused, but also as a tribal executive, as the mayor of my hometown here in Durant, Oklahoma, and also as

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a combat veteran in the United States Army I also understand the importance of public service through inter-governmental partnerships. And that's very valuable.

So the Treasury's action -- again, back to what the Deputy Secretary alluded to earlier on, the action on our obligation FAQ for the state and local fiscal recovery funds, that gives us a positive example of what can be done. And at our last TTAC I elevated a concern from many tribal nations regarding the definition of that obligation on those SLFR funds which impacted the ability of tribes to use fiscal recovery funds based on when that obligation deadline was going to occur.

And for our tribe it was about 18 to \$20 million worth of an impact. That's substantial. But through coordination of the Tribal Office we met with Treasury staff. We met with White House staff. And Treasury recently issued a clarifying guidance that confirmed deference to tribal governments.

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Now, Treasury doesn't have a deep bench of tribal knowledge, but it's clear you're building a system that incorporates it. We want to encourage that. The IRS Chief Counsel's Office is capable of doing that if your legal leadership is willing to develop tax guidance that incorporates the federal trust and treaty responsibility.

I'm the co-chair of the Tribal Economy Subcommittee and we've repeatedly requested the IRS meet with us so that we can share their questions about tribal corporations, again back to that perspective, so we can provide assistance and dispel suspicions which seem to be driving this 30-year-old research project which was going to be tax guidance on whether tribal government corporations are taxable.

So unfortunately despite these requests we've gotten nothing. We've been stonewalled. We just recently learned that a meeting may occur with our subcommittee. And our ask is that the participants enter into these

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discussions in good faith and not simply just to check the box. In addition to that we think once we get to that point it would be very helpful if we could have Interior also in the room and participating in those meetings.

Our economies, tribal economies are unique and distinct and we ask that your attorneys build their understanding of who we are and what our relationship is to the United States. This understanding should be based on our existence and not based on old archaic guidance that traps us somehow in eras of the federal government trying to extinguish our people and our organizations.

And we need -- we really need dedicated staff. We need them to gain experience. We need them to broaden their perspective on what tribal nations are and what they do. And I'll end my comments there and I thank you so much for the opportunity to comment today. Thank you.

MS. ABBAS: Thank you, Treasurer Tucker.

And last we'll go to First Vice President Will Micklin.

MR. MICKLIN: (Native language spoken.) Thank you, Madam Treasurer and Deputy Secretary, for your remarks and leadership on Treasury's improved relationship with tribes.

My name is Will Micklin and I serve as the fourth Vice President of the Executive Council of the Tlingit and Haida Indian Tribes of Alaska.

I also serve as CEO for the Ewiiapaayp Band of Kumeyaay Indians of California. Tlingit and Haida is the regional tribe in southeast Alaska, over 37,000 square miles or archipelago access mostly by boat or light plane or seaplane.

And I thank the IRS -- and we have over 37,000 tribal citizens. I thank the IRS and OTP staff that participated in a recent consultation on the report issued by the TTAC regarding tribal pension issues and recommendations. The Pensions Protection Act was passed in 2006 and recognized that tribal governmental plans are not subject to ERISA. However, final guidance has never been

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issued and IRS and Labor audits and enforcement against tribes continues.

We have requested an audit suspension and heard from the Chief Counsel's Office that the topic isn't in their decision making and from Commissioner Killen that this is a question of first impression for him. The same governmental employer definition at issue appears in both ERISA and the code. To the extent that IRS and Department of Labor have shared jurisdiction over duplicative ERISA and code provisions, the two agencies are required to work together.

In the United States Code, Title 29 USC, Section 1204, it is stated whenever the Treasury and Secretary of Labor are required to carry out provisions relating to the same subject matter, in this instance ERISA, they shall consult with each other and shall develop rules to reduce duplication.

There are other examples of such coordination. In 2011, for example, DOL and IRS entered into a Memorandum of Understanding to

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coordinate enforcement of independent contractor issues. TTAC wishes to meet with those in Treasury and Labor that have jurisdiction over coordinating these laws and who will make the decision to stop audits and enforcement until guidance is issued.

The Department of Labor is the key collaborator in achieving equity and parity for tribes. Since the PPA of 2006 there has been no meaningful consultation between the Department of Labor's Employee Benefits Security Administration, EBSA, and tribes regarding the application of ERISA standards to tribal employee benefit plans. In fact, Labor has refused to consult with tribes in certain cases and has taken the position that there is no need for consultation regarding the PPA requirements.

Last fall however in the publication of Labor's Revised Tribal Consultation Policy Labor committed to consultation with tribes and agreed to engage and partner with federal agencies when issues with tribal implications overlap.

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Employee benefit plans are subject to oversight by both Treasury and Labor and certainly are an area where tribal implications overlap among the agencies.

The TTAC now asks EBSA to agree to consult with tribes and Treasury on the definition of essential government functions, governmental functions, and commercial activities. If not given the mandate of federal code and executive order, why not? If EBSA will consult with -- on the PPA issues, will EBSA agree to a moratorium on the enforcement of ERISA requirements, including Form 5500 penalties, while consultation is underway and until final guidance is published?

The TTAC is not aware of any lawsuits regarding the mismanagement of governmental retirement plans by tribes which begs the question of why EBSA believes tribes should not be afforded the same ERISA exemptions that state and local governments currently benefit from.

Finally, I highlight that tribes are being left out of IRS modernization. Alaska is

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the largest state and the equivalent of 19 states in the Lower 48. Alaska has 229 tribes that live in the most remote conditions, many without access to basic necessities like indoor plumbing or electrification, and the majority lack access to broadband.

Despite that need Alaska has only one taxpayer assistance center in Anchorage where you search according to the IRS website and by practical experience. Clearly, Alaska Natives and rural Alaskans are being neglected in the IRS modernization, but IRS audits and threats of those audits against tribes and Alaska Native citizens do not neglect Alaska.

The TTAC wants to have a partnership with the IRS to improve their understanding of the tribe trust responsibility to improve the welfare of tribal citizens. We ask that you support our request to suspend enforcement without guidance or until there is clear guidance and to ensure the trust responsibility is included in the IRS modernization plans.

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I thank you for your time and attention.

(Native language spoken.)

MS. ABBAS: Thank you, Vice President Will Micklin.

And I'll turn it to Chief Malerba to deliver any follow-up on behalf of the Deputy Secretary.

MS. MALERBA: So I want to thank all of the TTAC members for your impassioned discussions today. It is always difficult when we think about tribal history. It's always difficult. And we all have such stories of loss and yet here we are still working to make sure that our voices are heard. So I thank everyone for that.

I won't put any words in the Deputy Secretary's mouth because he's my boss.

(Laughter.)

MS. MALERBA: But I definitely will bring all of these comments forward, the ones that he was not able to hear. Fatima and I meet with him regularly and we talk about progress that we

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make or the lack thereof, and also what's on the hearts -- in the hearts and minds of our tribal -- all of our tribal nations, not just the tribal nations that are represented here, although you are all representing all of the tribal nations.

One of the things that is really helpful to me, and I'm not saying this because Morgan Rodman is in the room, but that I get to represent the Secretary on the White House Council on Native American Affairs. And so we do try to work across agencies, which is really helpful.

And I do hear the requests that the DOI be brought in to just understand the things that we're working through to make sure that we are not impinging on tribal sovereignty in any way. And I would think that they are really truly the most engaged in protecting sovereign rights of all the agencies within the tribe -- within the federal family.

But I do know that all of my Treasury colleagues have worked really hard to understand what that relationship needs to be. And I know

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that they're tired of me talking about it a little bit, because we talk about it all the time. We talk about the trust and treaty obligation and it's something that we all take very seriously here at Treasury.

And I appreciate the fact that we do have an Office of Tribal and Native Affairs because one of the things we're still learning with Treasury are how many offices directly or indirectly touch tribal nations and tribal citizens. So we are educating ourselves just as much as we are educating our colleagues here. So I appreciate these comments.

Know that we are working really hard to get to the point of having guidance on some of these really important topics and it is something that -- I am very fortunate to have an attorney as the director of the Office of Tribal and Native Affairs because her words definitely are important to hear. I speak from a tribal leader's perspective as well as a Treasury perspective so I kind of have that dual look at how do we address

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these issues together?

And I do believe that it is a partnership and it is something that we need to address because tribal economies are taking the place of trust and treaty obligations. And you'll hear later in my comments, but you can't have a tribal economy without public safety. And I know that you've talked a lot about that. You can't have a tribal economy if you don't have houses on your reservation and you can't create good jobs on your reservations.

So tribes are very holistic in how they look at these things. We don't silo these things whereas -- within federal agencies of course we have experts in all of the various -- in all the various components that make up an agency. We look at it very holistically. And I think that's what's important to us is to make sure that we're carrying that message forward for everyone. And please know that we take that role very seriously.

MS. ABBAS: Thank you so much, Chief Malerba. And I know that the general counsel Neil

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MacBride and Laurel have to leave. Laurel has to catch a flight to go to Seattle, your state, in Washington, Chairman Allen. But I did want to thank them for attending. Chief Malerba does often talk about the TTAC and so very excited that they were able to hear the TTAC's feedback. It's definitely hard topics.

So you two can leave.

MS. MALERBA: I do want to --

MS. ABBAS: We're not kicking you out, but --

MS. MALERBA: I do want to make mention of the fact that Counsel MacBride is coming with us on a tribal trip to North Dakota at the beginning of this week. And he's been asking to come along on it. This is I think a good opportunity for us to share a little bit more on the ground about what's happening.

MS. ABBAS: Thank you again.

And next we're going to move to Commissioner Killen, who's Commissioner of the Tax-Exempt & Government Entities Division within

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the IRS. He will provide some remarks and then we will take comments from the TTAC.

Commissioner Killen?

MR. KILLEN: Thank you, Fatima.

Good afternoon, everyone. Madam Treasure, Chief Malerba, Chairman Allen, TTAC members, it is indeed my honor and privilege to be here before you this afternoon.

As the Deputy Secretary has acknowledged -- and I can't be as eloquent as he was, but I think it does bear mentioning that from the IRS perspective this body is really essential to effective tax administration. And I do want you to know that we are absolutely committed to working, engaging with you. We want to be seen as a trusted partner. And so I just want you to know at the outset that you have our organizational and certainly my personal commitment in my capacity to continue in that vein. Obviously I do think we've made some progress, but it's very clear that there's more for us to do and I do want you to know that we are committed to that.

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I bring greetings from IRS Commission Werfel who otherwise would have been here, but he is traveling abroad this week, and he asked me to attend in his stead. So in some respects I will try channel him a bit, but most of the sentiments that I will express certainly I know he is in agreement with. And we can get into to just a few things that I would like to cover that I understand are issues of great interest to both this body and to Indian Country in general. And so really, really four things that I want to talk about a bit this afternoon, if you will bear with me.

So the first topic is really related to the various regulatory matters. And obviously the Deputy Secretary just really articulated our commitment to moving forward with GWE and so I won't add to that because I do think he was clear in the direction that we're headed.

A couple of points that I do want to make from the tax administration perspective within the Internal Revenue Service, and that's really two things in particular related to GWE.

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And that is our commitment to abide by the statutorily-mandated moratorium on examinations related to that issue. So I do want to reenforce our commitment to that.

And the second thing that I want to reference with respect GWE is also the statutorily-mandated and contemplated focus on training that will be necessary for effective implementation and the engagement consultation partnership with Indian Country through the TTAC in order to make sure that we have the perspective of Indian Country that is really imbedded within that training. We do want to reenforce those two aspects related to GWE in particular as I know that that has been a topic of continued great interest across the TTAC and across Indian Country as well.

The second thing that I want to talk about a little bit is the Inflation Reduction Act, and specifically the new opportunities that present as a result of the funding associated with the Inflation Reduction Act and why that is so essential to the Internal Revenue Service, to tax

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administration, to taxpayers, and specifically to Indian Country. And that is that we now have the ability to do better.

I think previously -- I think it goes without saying I hope that we all have -- aspire to do better. But we do now have the funding and the organizational commitment and I think momentum that will really facilitate us to fundamentally improve tax administration, fundamentally improve the engagements that result from that. And that's in all of its forms.

You all know, I think and hope, from prior conversations that as a result of the Inflation Reduction Act we created in great partnership with the Department of Treasury the Strategic Operating Plan which lays out our objectives related to how we will exercise effective stewardship over the funding that's been entrusted to us.

And in that Strategic Operating Plan we really lay out five key objectives that I think are important, both philosophically and

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practically to all taxpayers, and certainly -- that applies to our taxpayers in all of its forms, but certainly applies to Indian Country and in furtherance of the government-to-government relationship and the essential needs that exist throughout Indian Country.

And that is we have the opportunity to improve taxpayer service in all of its forms. And I would invite you all, if you haven't had the opportunity to do so, to look at the Strategic Operating Plan. And you'll see the listing of objectives that I'm about to articulate.

But better taxpayer service. Faster issue resolution. Smarter enforcement when it's appropriate and necessary. Better use of technology and analytics, which I think can benefit many in ways both that are intuitive and in ways that both are meaningfully and in an indirect way benefit taxpayers' service, our engagements, our partnerships, our interactions. And then finally, empowering employees, which also allows us the opportunity to bring new professionals into

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the Internal Revenue Service across a range of disciplines. And I think that's needed.

I think some of the things that were discussed earlier on I think in many ways sort of are illustrative of our need to have people across all areas within IRS who have a sensitivity to and awareness of and a desire to engage on many of these issues.

So the Inflation Reduction Act and the Strategic Operating Plan as illustrated by those objectives I think will allow us to move against that. And I say really in the spirit of transparency, candor, honesty I think that we have a lot of momentum in place. I think we've already begun to see across IRS some fundamental improvements in various areas of customer service and in various areas of modernization.

I think we certainly have an opportunity to do more. This is just the beginning. But I do want you all to know that we are committed to that. I want you to know from the standpoint of tax-exempt and government

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entities, Indian tribal governments, that all the things that I just articulated that are at play across the Internal Revenue Service, they absolutely apply to the work that we are doing within Indian tribal governments, the work we aspire to do, the work we need to do, and the work that we will do. So I wanted to talk about that for a moment.

I also want to talk about some of the things that we've been able to do I think in large part and from some of the opportunities presented through increased funding specifically within Indian tribal governments focused on our efforts around engagement, partnership, communication, education.

So over the last several months we've been able to hold employment tax workshops. We'll continue to do that. We've been able to present at various forums that are very, very important to this body and to Indian Country in general.

And then we've been able to do a variety of work around clean energy. And I want to talk

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about that for a moment because that was a topic -- my last visit here to the TTAC was actually back in September. And at the time we had a lot of conversation around the tax provisions of the Inflation Reduction Act, specifically the Clean Energy Credits. And more specifically I think the elective pay election and the opportunities that that provides to Indian Country and tribal nations to be able to leverage those credits for their respective interests.

And at the time I remember talking here, almost in this exact same chair, about our commitment to do everything that we could to communicate, educate, engage so that first of all tribes have an awareness of the credits themselves.

And secondly, so that there would be clarity on the things that they could do, would need to do to avail themselves of those credits.

And so I made a commitment here at that time that we would do everything that we could by way of communication and training. I do think that we've made significant progress in honoring that

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commitment. I do want you to know that we're committed to doing more in that regard.

But just to give you sort of an update on the things that we have done, following that engagement that we had back in September we created a Strategic Communication Plan around education with respect to these credits within Indian tribal governments. And it's a very robust plan. We actually created that plan across Tax-Exempt & Government Entities, but the focus of this conversation is what we've done with respect to Indian Country.

So there is a Publication 5817-F that we created last summer, but that has recently been revised. We've issued 31 newsletters, 31 different newsletters to ITG subscribers. We've had open office hour calls for that level of personal engagement and just a variety of educational efforts, many of which I think that we've done in collaboration with Treasury in general, and in particular with Director Abbas and her office as well.

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I do want you to know, again, that we are committed to do more. Because we know that education is really a journey, not necessarily a destination. So the work there is never done, but we are absolutely committed to doing more. If you have ideas about ways in which we can do more or we can do the things that we are doing better, we're very much interested in that and would welcome that. So I wanted to follow up on that as a third point.

And then, finally, I think the thing that I wanted to address here -- and this was mentioned earlier by Councilmember White Horse, so I do want to acknowledge the point about the child support issue. I want to take a moment to address that issue because there's been a lot of confusion over the past many days following that article. And I think I do want to very clear that that article is inaccurate.

And I want to be clear that IRS has not changed our policy regarding Indian tribal government access to federal tax information

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through offsets to states. And we have not changed our position on that. We are committed to continuing the work with states and continuing to work with Indian tribal governments so that the flow of that very, very necessary information continues to flow unabated.

So we have actually released a statement on irs.gov that is validating what I am saying here and that's affirming the inaccuracy of that press account. So we have not stopped the flow of data to any entity at this point with respect to child support. So I want to be 1,000 percent clear about that.

I also want to be 1,000 percent clear about our continued commitment to be solution-oriented in all of the complex issues and challenges that we face. And there are some complexities and some nuanced complexities regarding this issue, but I want to be very clear, very clear about the fact that the flow of data from our perspective remains. We have not stopped or ceased the flow of data.

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And I just want to clear that up and want to say that again we are public beyond this forum in our clearing up of that issue, which quite frankly we don't know -- we know the origin, but we don't know why that was articulated in the public forum in the way that it was. But we have been working to clear the record on that.

So I think the only thing I'll say -- so certainly interested in the questions, comments, concerns, but I do just want to say -- and again I think the Deputy Secretary was very articulate in this -- but this is a critically important body and we are absolutely committed to continue to work with you and to be a very, very engaged partner. I'm personally committed to that. I know our Indian tribal government function is committed to that and I know that IRS senior leadership above me is committed to that as well. So, with that, I'll stop.

MS. ABBAS: Thank you so much, Commissioner Killen, and now I'll go to the TTAC and I'll open it up to any comments by TTAC members.

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Chairman Allen, Ron Allen?

CHAIR ALLEN: Thanks, Fatima. Thank you, Commissioner, appreciate your comments, and I think to kickoff this conversation, going to the theme that you heard earlier with the Deputy Secretary, that as we move forward with the regulations for GWE and for the guidances that we're seeking with regard to tribal chartered corporations and clarity, that I think it's critically important that we continue to underscore the need for the Internal Revenue Service to consult with the tribes before you do anything.

You know, to consult with us after the fact doesn't work for us. It's happened to us for generations, quite frankly, if I can put it that way, and we're frustrated.

We agree with you that the General Welfare Exemption Act put us in the house, put us at the table with you, allowed us the venue that we can now engage with all of the key people in the various divisions that affect taxation,

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regulations, policies, guidances, et cetera, that now we are learning how the system works and how it understands our relationship, and it's a hard thing to do. Even though tribal nations have been here since day one of this nation, you know, here we are, you know, 250 years later and it's still learning about what our relationship is.

And I just want to kind of, if I can pause for a minute, I'm reading a book about George Washington and Indian Country, learning about what the forefathers thought as this nation built itself to where it is today, that it couldn't do it without government to government relationship back in the origin of this country.

And so, here we are, you know, 250-plus years later, that we're still working it out, and it's complicated. Your responsibilities are complicated. We definitely appreciate the significant progress we've made just conceptually that, okay, we get it. It's complicated. You're nations within a nation and you want to be a part of the solution for America's needs, including all

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of our citizens.

And so, but the devil's in the details of the decisions that you and Commissioner Werfel make, that before regulations are published, before audit, our audit constraints are lifted, that you engage with us so that problems don't happen when new determinations are emerging that all of a sudden cause more harm to communities that are struggling.

You know, Cora talks about, you know, the example of the Oglala Sioux and Pine Ridge, 80 percent unemployment. You can imagine those challenges, and it's not just the Oglala Sioux Tribe. I mean, we can show you more. You know, you kind of go well, is 30 percent acceptable? Well, no, it's not, not when the nation norm is in the four, five, or six percent.

So, I just want to throw out that I appreciate that the Tribal Affairs Office in IRS, you know, Christie Jacobs' days, and Telly, and Carmen, you know, who are all helping, but training is a big issue.

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I have participated, as I've shared with you, in hour-long sessions, but to try to help any new person in your staff, your agents, to understand Indian Country, the protocols, the responsibilities, the relationship, the trust obligations, the status of tribes in an hour don't work. You know, we have to talk about what that curriculum is, that training is, and we want to make sure that we work closely with you on that matter.

We appreciate your sincerity, and Commissioner Werfel's sincerity, and we just, we need to make sure that we make a commitment to engage, make it more meaningful. We do need regulations to provide guidance. We do need guidance that deal with our businesses and so forth.

And I've said numerous times that our challenge is overwhelming for us to be able to provide our needs. We need your help, and we need Commissioner Werfel's help, and then we need the team to be on board.

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So, Chief Allan, Chairman Allan, the other Allan has made the comment that we don't want to just pat ourselves on the back and say nice things that sounds good relative to why we're here.

We need to put something meaningful on the ground and on paper and implementation that's going to make a difference. So, thank you. I appreciate your comments.

MR. KILLEN: Chairman Allen, if I might, just to say I do want you to know you have a committed partner here, and with respect to the training, I do know people, so we can arrange a modification of that, and so we can talk about that, absolutely.

MS. ABBAS: Thank you, Chairman Allen. Do any other TTAC members have comments or questions? Chairman Chief Allan?

MR. ALLAN: Thank you, Mr. Chairman, and Chief, and Commissioner Killen, thank you so much for being here today. I'm going to start off this by saying I'm not an attorney. I'm not an expert in tax law and all that good stuff, but one

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of the things that is concerning is the, you know, my understanding is that some of the IRS audits have been auditing our individual tribal members and not the tribal governments, and my understanding is that that's not -- they don't have jurisdiction over the individual tribal member, but the tribe.

So, I guess I'm bringing it up because, one, I don't like a bully. I mean, a lot of our people are on fixed incomes, you know. We -- you know, everything we do, we do it methodically. We don't just pass a rule and say hey, we're going to do this, or we're going to give everybody free money or lower tax. You know, people are on fixed incomes. They're on Social Security.

You know, we have to -- everything we do, we have to make sure it doesn't affect, you know, the long term of that, and so my concern is that, you know, if we are doing, if the general welfare, if they are auditing individual tribal members, you know, for that, we should come to the table and talk that through because I don't want

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any agents, you know, talking to (Native language spoken) or my (Native language spoken) or my (Native language spoken) and, you know, because they don't understand all of that stuff and they get scared, and so, and they're all on fixed income, and so we need to make sure we're on the same page with that.

And, you know, I like that we're moving forward and, you know, Ron says we're all helping each other and that's great, and I think that's good, and if we can't help each other, then we've got to come to some agreements to, like, so we can each get out of each other's way so we can do other things, so we can -- you know, because like I said, my job as chairman, and I haven't -- you know, I've been there so long and I know what it takes to, what my people need, you know, more than coming to Washington, D.C.

When I was younger, I used to like to -- I came to Washington, D.C. a lot, you know, but then I realized my fight is at home with my people and I need to be there for them, and so coming out

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here all the time to, you know, pat each other on the back, that's one thing, but that's why I want to take it to that next level, you know.

So, those are just comments I just wanted you guys to be aware of that, and I'm -- yeah, like a lot have said, there's just a lot of miscommunication out there with, you know, what tribes are getting, and doing, and stuff. So, and I just want to thank you your time and, you know, sitting here, I know it's tough, and I do love your passion for -- you said, you know, you have your commitment to us, and I do appreciate that, and like I said, a lot of times we don't get that, and so I really do appreciate that, so thank you. Thank you, guys.

MS. ABBAS: Chairman Butler?

MR. BUTLER: Thank you, Fatima. Commissioner Killen, again, thank you for your time, and for your commitment, and for your passion for Indian Country. I think, you know, what the Chairman was just saying about communication is key to just life in general, right, and making sure

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that we're open, and honest, and timely.

And I think, you know, the conversation earlier about the Washington Post article speaks to that in that, you know, as soon as you guys hear about that and are ready to address it, engaging the internal team immediately, but using TTAC as a sounding board, as a reference to help you and assist with that communication is critical so that we can help share that message as well, especially if we're on the same page. If you're disagreeing with us, just do it on your own, okay?

(Laughter.)

MR. BUTLER: But that said, I also have a question regarding the Inflation Reduction Act.

Many tribes are working on energy projects and will be filing for direct pay, which gives them access to tax credits for renewable energy development.

We're grateful for this opportunity, but many tribal nations have questions related to compliance and how the IRS will approach this process for governments. Which divisions of the

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IRS will be responsible for compliance audits for tribal nations, and will ITG have a role to ensure that the trust and treaty obligations remain at the forefront in those conversations?

MR. KILLEN: Thank you for that question. It's a great one because, you know, we are in the midst of it because this is new legislation, and we are in the dawn of implementation there now is as, you know, entities across the board begin to file.

So, just a little context, because I'm a big believer in context because I think that's very important, so I will answer the last question first and then I will give the context. So, the answer to the last question is ITG will absolutely be involved for sure in all aspects of implementation of elective pay, whether that be through education, communication, whether that be through working with our colleagues, and primarily probably large business and international, but also potentially small business, self-employed as well.

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We will absolutely be involved in that because that's actually, you know, central to our current procedures. You know, where there are engagements with Indian Country, all doors should lead to Indian tribal governments, at least at the start, so that we can make sure that there's proper awareness and education around protocols and around engagement with Indian Country.

So, ITG will absolutely be involved in that for sure. We are still working through what the procedures, you know, around this will look like because, you know, it's a -- there are a lot of different aspects to this because there's the pre-file registration, there's the at-file process when people actually file to claim the credit, and then, you know, to the extent that there's compliance activity necessary post-file, then there's that aspect too.

So, as a team across IRS, we're working on that. We meet frequently. You know, every couple of weeks, we meet with both our internal team in Tax-Exempt and Government Entities, which

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is inclusive of ITG, and our colleagues in Large Business and International, because for elective pay that is within the IRS, it's primarily, you know, those two organizations, TEGE, ITG organization, and Large Business and International.

So, we're still sorting through what that will look like, but there will absolutely be engagement, involvement with ITG when it comes to Indian Country for sure. I'm sorry, Chairman Butler, there was a front part of your question.

MR. BUTLER: And what divisions within the IRS will be responsible for compliance audits for tribal nations?

MR. KILLEN: Yeah, with respect to elective pay, that will most likely primarily either be TEGE and/or LBNI. As I said, you know, we're working through what that process will actually look like, but when it comes to Indian Country, as I've said, you know, ITG will always be involved in that because, you know, that's our commitment. That's our organizational

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responsibility.

And in fact, you know, that's really in a great many ways, I think, one of the founding premises around Indian tribal governments, that they be engaged, so I hope that's helpful. And as we work through this and gain experience, you know, we'll be able to refine our approach and be very transparent about that because I think that part is important.

MS. ABBAS: Thank you, and I think Chairman Ron Allen has a follow-up question.

CHAIR ALLEN: I do have one more point with regard to the guidance that we need with regard to tribally chartered corporations. I guess there's two points. One is wholly owned tribally chartered corporations designated for the purposes of generating revenue to serve Indian Country, to fulfill the unmet needs, should be a no-brainer, should be as simple as can be. It's we're tax-exempt, period.

The issue where you have tribally chartered corporations where we're partially owned

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or primarily owned, 51, 49, or whatever, the notion that some within the system that thinks it's a shelter for some entity that is trying to hide resources from the federal government is a bogus argument. I just want to be clear about that.

We are transparent. We have audits.

Our governments are audited, our businesses are audited, and everything is on the table. And so, all we're trying to do is get investment in our communities. Provide incentives for investors to come into our communities and build our economies so that we can create jobs and so that we can create revenue that the federal government can't make.

If the federal governments provides right now \$31 billion, \$32 billion across the board and the need up north of \$300 billion, you can't get there. You can't live up to the trust treaty obligation, but help us do it on our own. We want to be self-reliant.

So, stop with the notion that something mischievous is going on out there when the rules

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are quite clear and quite transparent. So, that's something I think that the IRS has got to get. So, it shouldn't take 30 years to get to how will it work?

If an investor comes in and they help us generate a business, whatever the business is on our reservation or off the reservation for the purpose of serving the tribe, it's generating revenue.

Their revenue is taxable. Our revenue is not. It's clean and clear. The audits should always reflect that and then the tax guidance should reflect that. So, I just want to, you know, point that out.

We hear that and it's insulting. It's insulting that somebody thinks that we are being used. Chief Allan made a comment about we've faced that with the gaming industry, you know, 25 years ago, and now the same kind of stuff popped up and it's not true.

It's audited, it's clean, it's clear, it's regulated, and so that's something that I

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think is important, Commission, that we need to move this agenda forward because we are part of the solution and you need to help us get there.

Thanks.

MR. KILLEN: I appreciate that, those points, Chairman Allen, and I do recognize and respect that your perspective on that is in large part informed by the experiences you've had in this space because this issue has been out there for so long.

I must tell you from my perspective or what I've heard in my engagement, I haven't -- it hasn't been brought to my attention that people, whoever they may be, you know, are starting with sort of a fundamental, you know, assumption that something untoward would be going on.

I haven't been a part of those discussions, but I think your point is taken there, but I do, you know, just want you to know that I haven't heard that in my engagement and discussion, but I think it's a great point. Thank you.

MS. ABBAS: Any other TTAC members with

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comments or questions? Councilwoman White Horse?

MS. WHITE HORSE: Thank you. I talked earlier about our unemployment rate, you know, and most of our programs are federally funded and most of our jobs are funded through federal grants, and we have people who make \$10 an hour, yeah, yeah.

We still have a lot of tribal members who are still getting audited by the IRS even though Commissioner Werfel announced a change by IRS to changes, practices for groups previously harmed. Tribal citizens seem to be excluded in these fairness conversations.

Last month, the IRS put out a news release about a new IRS subcommittee on fair tax administration. I got emails from tribal citizens about the exclusion of tribes from the notice that references communities of color and underserved groups.

We are not a racial group. We have a political relationship with the United States, as I explained previously upstairs. The notice also

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said that the subcommittee will work with the Treasury racial equity committee, which has no tribal leaders on it, but the announcement did not say anything about TTAC.

Can you clarify why the TTAC and tribes are being excluded from the IRS' fair tax administration work and this new subcommittee, and can the IRS commit to working with TTAC on issues affecting tribal members and tribes? Because that's what we're here for.

MR. KILLEN: So, I must tell you just from, you know, just from a transparency standpoint, these have not been conversations that I've been involved in at the, you know, at the level of specificity and understanding all of the thought process that goes into that because I just haven't been.

I am aware of the concern around that issue because I've heard it over -- it's been brought to my attention over the last couple of weeks and I think there are some broader conversations going on about that.

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So, what I can share with you, Councilmember, is just my perspective based on discussions that I've heard and things that I know, which is that there is a commitment to inclusivity and diversity in all of its forms, and I think, you know, these are issues, I think, you know, that Commissioner has been clear about to our team internally, you know, that he's very much focused on because it's central to a fair and balanced system of tax administration, and it's also essential to the perception of a fair and balanced system of tax administration.

I will certainly take your concern back and make sure that there is an awareness. I think there already is based off of some conversations that I've heard over the past couple of weeks, but I will take this concern back and make sure that people are aware of that. I do know, and it doesn't necessarily get to the essence of your question, but I do know that there are a variety of bodies within IRS that we rely on to bring us the value and the benefit of their

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perspectives, including the IRSAC. The TTAC obviously is specifically statutorily chartered and contemplated to serve a very, very specific purpose.

So, I understand why you bring that up, and what I can do is just express my commitment to take it back, which I absolutely will do, and I think we can work through Chief Malerba and through Fatima to communicate where we're at on this, and I think that's the best I can offer here today other than say I'll bring this back, take that back to the organization.

MS. ABBAS: Thank you, Commissioner.

And we're just going to check for the two TTAC members online if they have comments, Treasurer Tucker?

MR. TUCKER: Actually, I do. Commissioner, it seems that the IRS Indian tribal governments has a more developed understanding of tribal issues, but the rest of the IRS doesn't, at least not as good.

And from conversations on tax guidance

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historically and in light of the IRS wanting to add staff, which we're encouraged by, tribal issues seem to be spread all over the IRS offices. So, is that happening on the Commissioner side, and if it is, how is the IRS going to have a consistent approach to treatment of both tribes and then also tribal citizens?

And then as an aside, one thing I want to add is in a prior career, I worked in banking, and some of our friends over in bank supervision in the Federal Reserve, they had a wonderful immersion program for new examiners, and I would suggest and offer up that that might be something that the IRS would consider as a part of the commissioning process, especially for staff that are going to be focused on tribal activities, and tribal policies, and tribal enforcement. So, those are concerns that I wanted to express and get your feedback on.

MR. KILLEN: So, I appreciate that. Actually, you know, the timing of these concerns and issues like attended to that. I think, you

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know, I try to be a very optimistic, you know, glass half full type of person, and I think the timing of these issues are really good in large part because of the opportunities we have through the Inflation Reduction Act, the hiring across the agency that's taking place as a result of that, and then the commitment to training that's absolutely essential as a result of that training.

So, these issues around making sure that there is an awareness, that there is an organizational intelligence around all of the issues related to engagement with Indian Country, with tribal nations, that's critically important.

So, the glass half full here is this is the right time, I think, organizationally for us to have this discussion as training becomes so important.

So, under our current procedures right now, it is the Office of Indian tribal governments that conducts examination interaction with tribes themselves, with the tribe. Tribal member examination interactions primarily take place within our small business self-employed

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organization. However, under our current procedures, all roads for those initial engagements should always lead back to ITG, to Indian tribal governments, for that awareness, for that understanding.

I will tell you that I have asked because this, I have heard through various engagements like this, you know, concerns about that issue, so I've asked that we do an assessment of our current procedures, and when I say our, I mean the Service's procedures, not necessarily just the procedures that we have within Indian tribal government, but that we do an assessment of our current procedures right now to make sure that those procedures say what they should say about engagement with Indian tribal governments, and if we have gaps in those procedures, then we have an opportunity to close those gaps to make sure that there are not inadvertent communication missteps. So, I've asked Carmen and her team to take a look at that, and they will be, and

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to the extent that there are gaps there, we will endeavor to close those gaps, but it's just not about gaps. It's also about what can we do to improve the procedures that currently exist? So, we're committed to doing that also, but it all starts with making sure we have a proper understanding of what the current state is from a procedural standpoint, so we're going to look into that.

Right now, under our current procedures, as I have understood them, all roads should always lead back to ITG. We're going to assess to make sure that is the case. If it is not, we will address that, but we will also be looking for opportunities to improve whatever current procedures we have.

And I think the great thing about the Inflation Reduction Act and the great thing about some of the organizational tweaks that we've made inside of the IRS house is that we have an opportunity to do that in a way that's uniform across the organization, whether that be within

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tax-exempt government entities, whether that be within small business self-employed, or whether that be within large business and international.

So, we're looking into that, but right now my understanding is procedures should lead back to ITG, but if they don't, we'll correct that.

MS. ABBAS: Thank you, Commissioner, and I think we have one last comment from Vice President Micklin online.

MR. MICKLIN: Thank you, Commissioner Killen. I refer to my opening comments about the audit enforcement actions for employee benefit plans and TTAC's request for you to commit to an audit and enforcement moratorium until PPA guidance is issued. I appreciate your reply that this is an issue of first impression for you.

I just wanted to help fill that information quest by noting that the subcommittee has been looking at the congressional record from pre-PPA to recent, and we've found a number of documents, including before the PPA of 2006 and after, and Congress from the Senate Finance

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Committee, from the other parts of the Congress, and I'll quote from one letter, and this is a quote from a letter from the Senate Finance Committee to the Internal Revenue Service.

We want to alert you to a perplexing regulatory situation faced by tribal pension plans and to urge the Internal Revenue Service to provide relief by issuing an administrative moratorium with regard to tribal pension and welfare benefit plans.

This moratorium will be similar to the administrative relief provided in the past to state and local governments when there was uncertainty as to how the Internal Revenue Code applied to those plans.

This request is longstanding. It has express support from the Congress, from before the PPA of 2006 until recent, and so we think we have good standing and merit for our request.

As to my prior comments in our prior discussion about resources in Alaska and the Great Plains where there are high Native populations and

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lack of resources by the Service, both to individual Indians as well as to tribal governments, excuse me, I'll just say that my perception is that there needs to be more resources and more support for ITG.

ITG does an excellent job. The leadership has been outstanding, from Christie Jacobs to Carmen Zucker, and whenever called upon, they accomplish quite a bit, and yet I don't see that they are being resourced adequately.

I don't see that there is sufficient integration within the Service for the expertise of the ITG, and that the training, both within ITG and then extending outward to other contexts with individual Indians and tribal governments within the Service, is sufficient to the task, and so I again recommend that the Service fully integrate ITG in the IRS modernization plan and contemplate those resources for the support of tribal governments and individual Indians. I thank you.

MR. KILLEN: Thank you, acknowledged on all counts, and again, you know, I think it's

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very fair to say that we have work to do, but I think to me, from my perspective, from my chair, the thing that's unique about this moment in time that we find ourselves in is that for the first time in a long time, we are properly equipped to be able to do the things that we need to do better.

You know, so when I hear some of that laundry list of very appropriate items, I get enthused about our ability to make some inroads there. You know, with respect to the presence aspect which I'm referring to when you talk about the presence in the Alaska and the Great Plains, those are things that we can absolutely look into.

And when I say look into, I don't mean that in sort of the normal way people maybe bureaucratically say that. I mean we will look into that to see what actually can we do there.

You know, I'm always mindful of things that I hear that I either don't know or haven't thought about as much, so I think that's something that we can take back.

When we were talking about this

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earlier, I think your point was around sort of holistic presence with respect to ITG, but also with respect to other parts of IRS in those geographic areas. The part that involves the other aspects of IRS, I will take back to my colleagues, the part that involves ITG.

You know, we'll have some discussion there to see what it is that we can do, what makes great sense for taxpayers, what makes good business sense for us, what's sustainable for us in a way where we can continue to provide service in an ongoing way over the course of years and not just have sort of a blip in time, but what can we do that we can adhere to over time.

On the training aspect, you know, as far as working with other colleagues across IRS, I think we have tremendous opportunity to do that right now. Training is going to be because, out of necessity really, because of all of the people that we have hired or are hiring across the Service.

That's going to be very much a focus.

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It's a focus now, but it's going to be really probably the dominant focus I would say in FY25 once we have replenished the roles. So, I think we have great opportunity for cross-organizational training on these matters, and that's something that we will fully embrace.

The modernization piece as far as our overall engagement, we are engaged right now in ITG and TEG, but obviously we can do more. We have an opportunity to do more and I'm very excited about some of the things we have down the pike coming our way.

Again, on the moratorium issue, I just want to say it is an issue of first impression for me. I appreciate the context that you provided on that. You know, I will just say transparency, I will go back and have a discussion with our team, which will be inclusive out of necessity, of our team, and Indian tribal governments, our employee plans function, and our colleagues in council.

Again, the first time I've heard of it with respect to plans -- I am very familiar with

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the moratorium, as I spoke earlier, around GWE because that's embedded right in the statute and that's something that we've just had active discussion about, so that's something I'm just more familiar with. This aspect around plan moratorium compliance, I'm just not as familiar with, but I will get up to speed fairly quickly on that and, you know, we'll circle back. Thank you.

MS. ABBAS: Thank you so much, Commissioner Killen, and we greatly appreciate your participation with the TTAC, and we know you have a busy schedule and need to depart, so again we just want to say thank you. And I know the Associate Chief Counsel for Triple E also needs to depart, so we'll -- you can leave at this time.

MR. BUTLER: Fatima, just if I could? I apologize.

MS. ABBAS: Yes.

MR. BUTLER: Just one last question for Commissioner Killen. A lot of what we talked about today and the concerns that the TTAC has had and that we're sharing from Indian Country at large

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center around communication.

And we know there are some major policy and guidance decisions that are coming down the line, and I guess the request and question of you is to ensure that we are allowed, in advance of any finalization of that TTAC, the government departments are allowed to review and be engaged in that prior to finalization, and hopefully we have your commitment to do that.

MR. KILLEN: Absolutely, Chairman Butler, you have our commitment for that, and I think we will look to -- well, she's sitting right here. I will look to Fatima to help us facilitate mechanically, tactically how we actually will go about doing that.

MR. BUTLER: Great.

MR. KILLEN: But you have our commitment and I'm very interested in just the details around how exactly do we need to do that to have optimal benefit, so we'll do that.

MR. BUTLER: Thank you, appreciate that.

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MS. ABBAS: Thank you again, Commissioner Killen. And we have on the agenda next Lisa Gomez with the Department of Labor. She had to step out to take a call. She will be returning. So, we're going to move Chief Counsel updates as Treasurer Malerba has already made her remarks. First, we'll go to Triple-E for comments. Laura?

MS. WARSHAWSKY: Good afternoon. Following what everyone else has said, we have been trying to do action rather than just words, Chief Allan.

So, we actually, in response to the TTAC last September, we have had one consultation on the tribal pensions report, and we have another consultation planned for Friday on our long-term, part-time employee regulations under 401(k), which Deputy Secretary Adeyemo mentioned. That is a -- to say again what that regulation is, it makes sure that people who have been employed for less than full-time can have the benefit of being in a pension plan or a 401(k) plan.

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Those are things where perhaps we should have had a consultation before we drafted the regulation, but having it brought to our attention that it had an impact on tribes that we weren't aware of, we are absolutely delighted to have the opportunity to get some input because they are at this point proposed and not finalized, so comments can be taken into account.

In terms of the governmental plan regulation, the report from the Committee on Parity and Reform, we have just received those comments this week, and are going through them and considering them.

We were asked earlier if we would consider having additional meetings, and having not spoken to Rachel who was here and gives her regrets that she had to leave just now, we would be willing and happy to have additional meetings with the TTAC or with the committee to discuss those points.

MS. ABBAS: Great, thank you so much, Laura. I'm going to turn to the Co-Chairs of the

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Parity and Reform Subcommittee for any questions.

I believe Will Micklin, first Vice President Micklin has a comment.

MR. MICKLIN: Thank you, and thank you for the comments. Instead of going through the list of questions I had for the Chief Counsel's Office, I will thank you for the acceptance of our request for a meeting with the subcommittee, and pending your review of the comments submitted, we look forward to an active discussion in the near term concerning those issues that are arising around the definitions of essential government functions, and commercial activities, and the follow-on concurrent requests for a moratorium pending guidance. With that, I'll defer to Co-Chair Cora White Horse, Councilwoman Cora White Horse. Thank you.

MS. WHITE HORSE: Thank you, and thank you, Laura. I want to point out that the last time Treasury issued a ruling without consulting tribal government --

PARTICIPANT: Could you turn on your

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mic, please?

MS. WHITE HORSE: Sorry, better? I just wanted to point out that the last time Treasury issued a ruling without consulting tribal government, it failed miserably. It resulted in numerous litigation cases.

As a reminder, under the Affordable Care Act, Treasurer unilaterally included Indian tribes as large government, not government, not tribal governments, but as large employers, and that subjects the tribal governments to the large employer health mandates despite the ACA Section 4980, never identifying tribes as large employers anywhere in the legislation. As a result, tribes can only provide a less beneficial plan to their employees than they would receive in the federal exchange program, at greater costs to tribal governments.

Finally, for tribes in the Great Plains, like my tribe the Oglala Sioux, the 8th Circuit Court of Appeals has determined in a 2021 case called Rosebud Sioux Tribe v. the United

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States, that all signatory tribes to the 1868 Treaty of Fort Laramie are owed physician-led healthcare provided by the federal government at no cost to tribes and its members. That's what I says. It doesn't mean we get that, but that's what it says.

And adding this extra burden on is harmful to every single tribe because we are not large employers, even if we are the largest employer on our reservation. We are a government.

We are a tribal government, a government of a sovereign nation.

Treasury and IRS must reconcile their published rules to take into consideration the new legal landscape protecting tribal governments throughout the United States, and I don't know how many times I can say it, but consultation is key.

I'm not a lawyer by a long shot, but I can tell you about my tribe from the beginning to today, and I can tell you what has worked and what hasn't, so just ask. That's what we're here for as a TTAC, to work with the Treasury, IRS, and

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every other agency under Treasury, to provide consultation or advice to the programs to help us and help our nations, because we need to be working together, not against each other. Thank you.

MS. WARSHAWSKY: I think I hear what you're saying is that we should think about all of our regulations and projects and think about how they might impact Indian Country, or maybe even bring them to you and ask you how you think they impact Indian Country. Is that what you're asking?

MS. WHITE HORSE: Pretty much, and you know we have a whole group of technical advisors here who specialize specifically on Indian law who could train your staff on how you can better work with Indian tribes, and how you can take into consideration Indian law, and how it affects all of these tribal members for every tribe in the United States.

Because right now, we're not taken into consideration. We're considered a race. We're not considered sovereign nations as we should be

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within every single treaty that was given, that was signed by us. And as I said previously, our people gave up a lot, and we should be treated at least, at least as equals and not less than as we are today.

MS. ABBAS: Thank you, Cora, and we've definitely been working a lot with Triple E and we'll work with them on some of the follow-up. And just to reiterate, this Friday is the consultation that was mentioned, and that registration is up on our website. Next, we're going to go to Scott Vance, Associate Chief Counsel for Income Tax and Accounting, which has jurisdiction over tribal general welfare for comment, or updates.

MR. VANCE: Thank you, and I'm happy to be here again this meeting. Appreciate all of the comments and input. So, we have made significant progress since we last met. Just to, Chairman Ron Allen, to respond to your earlier comment about opening the curtain, I'll open a little curtain here.

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I have draft language in front of me.

We have that and we are working expeditiously to get that across the finish line. The core team met last week and we'll meet again tomorrow until we get this thing out the door.

We recognize it's important to Indian Country. From a personal standpoint, it weighs on me that we haven't got it out already, but we're doing the best we can at this juncture.

Just a couple of thoughts sort of in response to Chairman Chief Allan's comments earlier, it is a fairly short statute. It is fairly clear. So, a lot of what we're doing is trying to give effect appropriately to the legislative language. There's definitional issues building those out.

We do have the notice that's out. It's been out quite a while. One of the core issues is, you know, what do we do vis-a-vis transitioning from that to the regulations, trying to work out the consistency issues and things of that nature.

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Also, as an overarching principle here, as sovereign entities, the various tribes are accorded deference, so we're not trying to substitute our judgments for what gets paid, who gets paid, you know, within the construct of the statute.

I think right now, we're at a point in time that what the Deputy Secretary said earlier is quite realistic. So, summertime, summer starts in about five weeks. You know, we're going to try to push the release to as early as possible in the summer given everything that's happening this year, given all other workload demands.

I'm going to have to defer to the Tax Legislative Council and my colleague Krishna Vallabhaneni as far as what and when we share particular language as we have protocols we have to go through internally. My bosses get a look too, but I'm happy to report we made pretty substantial progress since last time, and very much appreciate the input of the TTAC members and the subcommittee. I was not able to attend, my

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apologies, the meeting this morning upstairs, but I understand that was constructive and productive.

MS. ABBAS: Thank you, Scott. Chairman Allen, do you have any follow up?

CHAIR ALLEN: Yeah, thanks, and thanks for the update, Scott. We have great confidence that you're working hard at trying to get those regulations faired out for consultation with the tribal governments.

I just want to reiterate consistent with our ask is that we would like, our subcommittee would like to be able to engage with you and your team, Lisa and the others, on what they actually are looking like. Because to say the obvious, there's a lot of provisions in terms of our recommendations versus -- the point they're making is we want to make sure there's consistency throughout the regs and we would like to see them.

Going to specifics, some issues are very important in terms of how they're addressed, lavished and extravagant as an example, the different kinds of ways to describe programs that

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tribes can establish, those kinds of things that are inside the regs. I'm only touching on a couple of items that are in there. Without a doubt, as you know, we worked hard at it. We had a good set of conversations with your team on those regs.

So, I guess what's on our minds is that when regs go out for comment and then they'll come back, we want to make sure that we are enabled -- and they're collated so we can see what comments are relative to what parts of the regulations. At that point, we'd like to be able to engage with you on how to respond to it and why or why not, and have those kinds of conversations before final regs come out.

Typically, final regs don't change dramatically from the proposed regs, but we are hopeful that there may be some key provisions in there, that it's really important in terms of implementing the spirit of the law and how it recognizes the tribes' discretion, and also the second phase of it, which is the training. We talked earlier with the commissioner with regard

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to how do we go about that agenda, which is a separate agenda, fair enough, but our first step is getting regs out and there's a comfort level.

So, I will just leave it at that. We've repeated this numerous times to you know and I know you guys get it, but we'd like to have that opportunity. If there's a Zoom meeting that we can coordinate which makes it easier for all of us, we're more than happy to accommodate, so thank you, Scott.

MR. VANCE: Thank you, Chairman Allen.

I appreciate that. We very much want to engage on these regs as they come out. You've captured the essence of the process. I mean, we have sort of two processes here.

There's the overall Administrative Procedures Act, which we follow. I expect the vast majority, if not all of the comments, will come from Indian Country, but of course, the general public is free to comment, and then there's the tribal-specific procedures which we want to follow and definitely engage as we figure out what to do

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with comments, how to react, any changes or tweaks that need to be made between the proposed rulemaking, which is the next document, and the Treasury decision, which will be the final document.

CHAIR ALLEN: Thank you.

MS. ABBAS: And I just want to turn to the other Co-Chair, Chairman Allan, for any questions.

MR. ALLAN: Thank you. Scott, thank you for being here today. In the past, we've heard the IRS has kind of held back some taxes for GWE, and obviously the tribes fought back on that because it's illegal. We think it's illegal.

I kind of -- you know, the GWE and the TTAC were wondering like if you could shed some light on what you guys are planning going forward.

Is that still in the -- are you guys still going to try to do that or, you know, where is the -- what are you guys thinking on the GWE tax withholding? You know, because it came from gaming revenue, you know, and so.

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MR. VANCE: Okay, so not necessarily what Commissioner Killen was speaking about, the gaming revenue. So, we have --

PARTICIPANT: Scott, your mic.

MR. VANCE: Sorry, sorry about that.

So, you're not talking specifically about what Commissioner Killen was talking about. More this is the coordination with the gaming side of the house and it's a different organization.

We have cross-agency, across, you know, commission coordinated on that, so we're not tripping over ourselves. I think, you know, we're trying to adhere as best we can to what Section 139E of the code says.

So, I think there's sort of two things that happen. One is one-willed concern, you know, Commissioner Killen's side of the house, but that's a little ways down the road. More proximately, when we issue the proposed regs, which is going to be very soon here, and then ultimately the final regs, I think we want to give full effect to 139E.

So, I don't have a specific answer I

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can give you this second as to exactly what that looks like, but the idea is to give full effect to the part of the statute that we do have jurisdiction over.

MR. ALLAN: Mr. Chairman, I just, you know, again, we would -- it's working together, and we could solve a lot of issues before they become an issue because we get clobbered by our tribal members and fellow tribes because we're on this committee.

And that was a big issue that tribes were concerned about was trying to attach it because it was gaming revenue, but we see it as revenue. We don't see it as gaming revenue. We see it as revenue for the benefit of the tribes going forward, you know, that we pour into our police force, our government, our infrastructure. It covers everything.

It's not -- we don't look at it and say oh, that's gaming revenue. We look at it as tribal money. So, anyway, just hopefully, you know, we can fix things before they become an issue because

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that will be a hot button issue, so.

MR. VANCE: Well, thank you for your comments, and I agree, you know, we got to get it right at the beginning. I know we've talked at these meetings before about per capital payments versus other types of payments, and let's work together to get that fixed up front as opposed to waiting months. Thank you.

MS. ABBAS: Chairman Butler, did you have a comment? Okay, thank you, Scott. We're going to go to Stephanie and then we'll return to Labor. So, Stephanie Bland is the Acting Associate Chief Counsel for Passthrough and Special Industries, which has jurisdiction over the tribal corporation matter. Stephanie?

MS. BLAND: Hi, everyone. I want to start out by saying thank you very much, Fatima.

I appreciate the invitation, Madam Treasurer, members of TTAC. It's a pleasure to be here. This is my first TTAC meeting, and I very much appreciate the opportunity to engage with you and to learn more about some of the challenges that you're

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facing.

You know, in passthroughs and special industries, as Fatima said, we have jurisdiction over the tribally chartered corporations project, and just sort of taking a step back and talking a little bit about the organization generally, the passthrough side of the organization handles things like partnerships, and S corporations, and things like that, and part of that group or one of the things that group handles is entity classification. The other side of the house, the special industry side, covers things like excise taxes, energy credits, and things like that.

And so, as I've been sitting here today and listening to you, both in the earlier session and today, I know that the Deputy Secretary mentioned the green energy credits and the elective pay, and I've heard a number of the TTAC members mention that as well, and the importance of, you know, being able to access those credits.

As I was listening to all of that, I was thinking about just the synergy within PSI

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itself, that, you know, we have been working on implementing these energy credits, and so, and we're also working on the tribally chartered corporations issues.

So, there's a lot of crossover there.

I'm aware of the importance of the energy credits and, you know, the revenues, and things like that.

So, I hear you with all of that and I understand why that is so important.

Regarding the tribally chartered corporations project, I think we have made some progress since the December meeting. We have a team of attorneys in PSI who are working on this issue. The working group meets regularly.

As I'm sure you all probably know just from thinking about this issue, there are lots of threads that flow from entity classification, and so it touches on lots of different areas within the Office of Chief Counsel.

So, even though passthroughs and special industries has jurisdiction and the project is under our umbrella, we have had a lot

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of conversations and a lot of involvement with our sister offices.

Triple E has been very involved. IT&A has been very involved. We've also been working with corporate and some of the other offices. So, this really has been sort of a cross-jurisdictional effort within the Office of Chief Counsel.

As far as the working group goes, as I said, they've been running down some of these issues. They've been engaging with each other just trying to find the right path forward, the right legal answer based on sort of the parameters of the statute and what we've been dealing with.

There have also been conversations sort of at the higher levels. I know there's been a lot of engagement with Treasury and a lot of collaboration there. So, I think we are headed in the right direction here. There has been some progress, and so I'm feeling good that we're, you know, sort of moving this project forward.

MS. ABBAS: Thank you, Stephanie.
Turning to the Co-Chairs of the Tribal Economy

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Subcommittee for any follow-up, Chairman Allen or Chairman Butler?

CHAIR ALLEN: So, my thought, I appreciate the update and I appreciate your comments as the team is working on what eventual guidance will look like. And every time we engage, it's a learning experience about the complexity of the system itself, the IRS system.

And so, you know, you're referencing the, different offices is the way I'm characterizing it, in terms of their role with regard to guidance that will come out, and everybody is comfortable with regard to how guidance would recognize the authority of a tribally chartered corporation.

Section 17 over in the BIA is a separate animal. You know, it just gets treated by the agency differently, and yet the irony for me is it's chartered through the BIA under the Indian Reorganization Act, but you know, it's still under our authority. It's still our corporation.

And as we have evolved into the 21st

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century, the sophistication of tribes being able to manage their own affairs, what's happening with the Department of Interior is they're now saying we don't need this. You don't need mother, may I anymore. Those days are over. You're sovereign nations. You need to deal with it on your own authority and not need our approval, our assistance.

And a lot of us bailed away from Section 17 because Section 17 is a difficult system to modify the charter as it may need to be modified for various reasons, and we said, you know, why go there when we can do it on our own authority?

And now you have to go over to an agency, the IRS, in terms of the guidance that it has with regard to how that guidance will recognize the tribe's chartered entity for the purposes of doing business and generating revenue for the benefit of the tribal citizens.

And so, one of the things as we move forward, as we said earlier now in numerous

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conversations and in previous meetings, you know, 30 years later, we're not waiting any longer. We're saying okay, if we can't get it done under this administration, we've got a serious problem.

And we've said numerous times we don't want to listen to why not. We want to listen to how to. Tell me where that barrier is. Tell me where that impediment is. Tell me what, the clarification of recognizing that authority and how it would be administered in terms of engaging with the tribes, what reporting is required, you know, and so forth.

And so, and we want to be transparent. I guarantee you that. We want to be transparent. We just want to be recognized and respected in terms of our chartered corporations for the purposes that they're established.

So, part of my ask, and we don't need to get into it today, but we do need a little bit more of a roadmap, so which offices have what role.

What do I need from them that they're concerned about that -- what answers do they need?

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So, if there's a question mark about a proposed rule or guidance, then what is it you need answered so that we can answer that, and remove that barrier, and move onto meaningful guidance?

We do not want bad guidance. We'd rather have no guidance than bad guidance.

MS. BLAND: I understand that.

CHAIR ALLEN: Yeah, so the issue to us is we want good guidance. And good guidance is relative to the respect of the tribes and the tribal businesses as we're moving them forward.

So, that's where we are from my perspective. And I would like to work closer to making sure I know where are these dots that I'm trying to understand? What's your concern? What is your role?

I appreciate the fact that you and your team are collaborating. You're engaging. Okay? So, you're telling me why not. I want to know how can we get this thing done? We're on the same page.

Our boss and our boss's boss, meaning the President, basically is saying, we're going to get this done. That's what Executive Order 14112 is all about. Remove the barriers, and so that we can move forward and strengthen our economy. So, I'll leave it at

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that.

So, I appreciate the update. I just think that the follow-up is going to be helpful to move the needle on getting this done. Thank you.

CHAIR ALLEN: Great, thank you. I understand. And I appreciate your comments.

MR. BUTLER: Thank you, Fatima. And thanks, Chairman Allen. It's definitely great to see you again and it's really a pleasure meeting you this morning.

I would just add to the Chairman's point in that good guidance means that you have a really well-balanced team and multiple perspectives.

And we appreciate the fact that the internal team has been working on this and there's some collaboration amongst departments within Treasury.

But broadening that out on a complicated issue like that and making sure that we have the right tribal expertise at the table, is critically important. And that starts with -- and I reflected on it earlier when Martin was talking about the request of the Economy Subcommittee to be engaged in this process, and we still haven't been yet to this point. And so, I think that's critically important to making sure that we're engaged with that tribal economy subcommittee at

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minimum.

But broadly speaking, getting some federal Indian legal expertise engaged in the process as well. They just balance it out. And also, thinking of Councilwoman White Horse's earlier comments about some of the prior guidance that was done years ago and how poorly that was drafted, at least in defense of tribes.

And so, that's the muscle memory that we have, and there's probably some of that muscle memory within Treasury as well.

And so, getting a broader perspective is only going to make the guidance better for all of us. As Chairman said, we'd prefer no guidance, as opposed to bad guidance. So, thank you again for your effort and that collaboration.

MS. BLAND: Yeah, thank you. And I completely agree. I think everyone here wants good guidance.

I think that's what we need to achieve the goals, and I think that we have engagement on our side, and certainly we have a willingness to try to learn about these issues and understand what's going on.

MS. ABBAS: Chairman Allen?

CHAIR ALLEN: Yeah, if I might just add one more point. The main reason we need good guidance is we want to remove uncertainty, because that's what's going on right now.

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So, we have businesses out there and I think that we've said before that we don't want to be in a position where all of a sudden the IRS comes into one of our businesses that's been established for years.

I have a bunch of them. Probably shouldn't tell you that, but the issue is that all of a sudden IRS says, well, we're going to tax all those businesses. And they've not be taxed for years, recognizing our authority.

All of a sudden, they come in and say, well, you owe us X. And we're going, oh no we don't. And so, we end up in court.

Why go there? I mean, lawyers are good when they're helping us get things done. They're not good when we're fighting in court over jurisdiction. So, that's what we want to avoid.

MS. ABBAS: Thank you, Chairman Allen. I think the other co-chair of the Tribal Economy Subcommittee has a comment.

MR. TUCKER: I do. Thank you, Fatima. And Chairman Allen really focused in on what I was going to ask about as far as Section 17 corporations. I agree with that 100 percent.

Tribes can and should be able to manage those independently, and we've got tons of experience, we've got tons of proof. We're very good at what we do, and for some odd reason we still have a very specific and very limiting set of regulations that apply

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to us.

But my question, following up basically what Chairman Allen was asking, is it seems like -- and Stephanie, you can help us understand whether this is accurate or not -- but it seems like we're trying to find an existing category or classification in the code that we can fit a tribal corporation into.

And that's just not going to happen. That's not possible, I don't think. And I think that probably leads to why it's been 30 years on without good guidance. Because we haven't yet found that place to peg a tribal corporation, because that place doesn't exist.

So, we would like to be talking about a separate set of classifications, or rule or code or guidance, around tribal corporations.

And again, back to what Chairman Butler was saying, we are very intent on being involved in it.

We want very much to be involved early on in the creation of that policy and those classifications, and not be advised of it after it's drafted and reviewed multiple times. And you've described that very well for us today. Thank you very much.

But we want to be involved in where we're going and how we're going to get there. And we're committed to doing that work. And I'm interested in your thoughts on that.

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MS. BLAND: So, I appreciate those comments. I think that certainly, as my colleagues had said earlier, we are very interested in collaborating, learning more about some of the complexities of what we're dealing with, and sort of trying to find a path forward on implementing guidance that will work.

And so, I am relatively new to this particular project. I don't know what consultation sort of happened before I joined the project. I know that since I've been involved -- probably since the beginning of this year -- we have certainly, thoughts of chief counsel has had engagement with the Department of Treasury. I believe Fatima has been somewhat involved and the Treasurer's been somewhat involved in those conversations.

But I do understand the importance of getting feedback and sort of understanding what some of these concerns are.

MS. MALERBA: And just, we can certainly share the copy of all of the comments that we have.

We did a lengthy consultation and summary. One of the letters we got was 100 pages long. So, we're happy to continue these conversations and try to keep things moving forward.

MS. BLAND: Absolutely. And I am aware of the round of comments. And I will say that those were very helpful. So, thank you very much. We appreciate those.

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MS. ABBAS: Thank you, Stephanie. And so, that concludes the Chief Counsel update. We're going to return to Department of Labor, and we have the Assistant Secretary for the Employee Benefits Security Administration, Lisa Gomez. I'm going to turn to her for comments.

MS. GOMEZ: Sure. Thank you so much, Fatima. And I want to thank all of you for having me here today.

I am Lisa Gomez, I am the Assistant Secretary of Labor for Employee Benefits, and in that capacity I have the honor of leading the Employee Benefits Security Administration at the Department of Labor.

I want to thank all of you, not only for having me here, but to Madam Treasurer and to all the members of the Committee for your leadership and your service in this area.

I am new to government and have been in this position since the end of 2022, but prior to that did not serve in government.

So, all of this is somewhat new to me and it's been a wonderful learning experience in all areas, and certainly in this area, things that I never in my 30 years of private practice dealt with. So, you learn something new every day.

And this has been an area that has been incredibly

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interesting to me and I am thankful to all of you for your generosity in engaging with our agency and with agencies across government to work on this government approach. So, thank you for all of that.

I am learning, and learning to understand about the issues that relate specifically to the Department of Labor and EBSA.

As you all know, EBSA's main job is to enforce ERISA, the Employee Retirement Income Security Act, and I was happy -- I apologize for having to step out for part of the meeting -- but I was happy to be able to hear so much of the discussion, and particularly to have been here for Member Micklin's comments and expression of understandable frustration with respect to the engagement, or lack thereof, with respect to EBSA.

And I do want to make a commitment to you all that I have brought myself into the discussion. I am learning and I understand the issues, particularly regarding the application of the governmental plan definition under ERISA, and the code, which I know we share jurisdiction over that with IRS Treasury, and we'll certainly work with them, and also with all of you, on finding a path forward.

With respect to that issue, the audit requirements that are currently being applied to the tribal governments under ERISA, and the issues that have come up there.

Again, the main message that I want to convey to all

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of you today is that I do personally give a commitment.

I know that previously there was a discussion about the Department of Labor's statement of commitment to working with the tribal governments.

I want to give you my personal commitment to making sure that we at EBSA are engaged, and to working with all of you, whether it be in the form of a formal consultation, or in a more informal meeting's discussions, so that we can make sure that we are learning from you, that we understand the issues, and that we can try to work together to come to some place, as far as whether it should be guidance.

I understand some of the asks that have been made with respect to moratoriums, or some type of enforcement relief in that area. I'm still getting my hands, quite honestly, around a lot of it. As was mentioned before, this is many, many years in the making.

And while I don't want to prolong it any longer, I do ask for some grace as far as I learn more about this.

But I do really look forward to that collaboration, and to working together on these issues. And I just thank you again for your generosity in sharing your stories and sharing your knowledge so that we can work better together.

MS. ABBAS: Thank you, Assistant Secretary Gomez.

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I believe First Vice President Will Micklin, of the Parity and Reform Subcommittee, has a follow-up.

MR. MICKLIN: Thank you. Will Micklin, Vice President, Tlingit and Haida. I thank Assistant Secretary Gomez for her remarks. I thank you for acknowledging my opening comments, along with co-Chair Councilwoman Cora White Horse.

And I also refer to the hope for a constructive engagement between TTAC and the Subcommittee on Parity and Reform on the issues on the application of ERISA standards to tribal employee benefit plans.

I thank you for acknowledging the USC section and the consultation commitment by Labor to engagement with tribes.

And you may not have also heard, but I did cite our research into the congressional record and the number of correspondence between the Congress and the service that expressed support for administrative moratorium with regard to tribal pension and welfare benefit plans, in advance of the clear guidelines for -- until those guidelines are issued.

So, I will only say for the record that the pending questions by the subcommittee is that EBSA would agree to consult with tribes and Treasury on the definition of essential government functions and commercial activities, and that we will consult with

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EBSA on PPA issues, and looking for an agreement on moratorium on enforcement of ERISA requirements, including Form 5500 penalties, while consultation is underway, and until final guidance is published.

I thank you for acknowledging our request and committing to engage with the TTAC and its subcommittee on these issues, and I will turn over to our co-Chair on this subcommittee, Councilwoman Cora White Horse, for further remarks. Thank you, Assistant Secretary Gomez.

MS. WHITE HORSE: Thank you. First of all, I want to say thank you for coming today. And President Biden's 2022 presidential memorandum on the tribal consultation instructs federal agencies to train their personnel working with tribes and tribal organizations.

Does the training address revenue generation and how tribes use the revenue they generate, including the restrictions on all of the uses of that tribal revenue?

MS. GOMEZ: Thank you, Member White House -- White Horse, excuse me. I'm across the street from the White House, so it came out quickly.

I will have to look into that. I don't remember exactly, having been a while since I myself was involved in that training.

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But I will check into that and definitely get back to the committee, and also make sure that all requirements of the directors, the memorandums that have come out regarding training are adhered to.

MS. WHITE HORSE: And my last question. Does EBSA agree that there's a difference between private commercial casinos that produce revenue for private interests, and IGRA-regulated gaming that restricts the use of gaming revenue for public purposes?

MS. GOMEZ: Thank you for that question as well. I apologize that I am not fully versed in all of the issues, in the detail of the issues.

I know the issues from a broader sense. I don't have information to share with you today on the position on that specifically, but I think that that certainly just highlights some of the more nuanced questions that come up in dealings between our agency and working with Committee. So, I'll certainly take both of those questions so that we can work together and get an answer to you on both.

MS. WHITE HORSE: Thank you.

MS. GOMEZ: Thank you.

MS. ABBAS: Thank you, Assistant Secretary Gomez, for your comments and for attending, and we'll work to connect you

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with the TTAC directly for their follow-up engagement with Department of Labor.

So, just checking on the time, we're at 3:30, and definitely need to get to public comments soon. Krishna was next on the agenda. Krishna, I think you -- oh, sorry. Chairman Allen.

CHAIR ALLEN: Excuse me. Before Krishna does and Assistant Secretary departs, first of all, I want to say thank you. We had a tough time connecting with Department of Labor with regard to the pension problems and challenges.

And the current rules, the current laws and rules make our job harder, with regard to our governance versus our businesses. And more expensive.

So, what we're looking for is more active engagement from your department, as well as the IRS, so that we can find what's the path to remedy this so that our government and our businesses, which are one for us, can manage those affairs with regard to caring for our employees.

That's the bottom line here for us. And we want to be able to be efficient. We're always constrained and tight for revenue. And so, that is a big issue.

So, I hope that the right persons that can be helpful to the Committee, who advises us on a course of action, whatever that

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course of action is. Whatever you can do on your own authority, versus do we collectively need to pursue legislative remedies. Thank you.

MS. GOMEZ: If I could just respond briefly. Thank you, Chairman. I cannot speak for anything that happened before me coming here today. I do want to apologize for any confusion that there was prior to me coming today. I am really happy and honored to be here.

I am not leaving anywhere today and I'm not leaving anywhere after today -- well, hopefully, we'll see -- as long as it's within my control. I'm new to the political jobs, another association with that.

But I can just commit to you that this is not a one-and-done for me that I'm showing up today to show my face, and that you won't see or hear from me again.

I am pleased to have learned to much. You continue to learn something new in this job, and I hear you on all of that and I definitely commit to having both myself and the appropriate folks on my team to work together with you to see what we can do as far as a path forward. I appreciate that.

CHAIR ALLEN: Thank you.

MS. GOMEZ: Thank you.

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MS. ABBAS: Thank you, Chairman Allen. So, I think, Krishna, you're comfortable with us.

MR. VALLABHANENI: I was just going to take an opportunity to thank everybody who's come to the table here, so to speak, most of today. This is what is necessary.

But one sort of explanation that you oftentimes hear from us folks on the tax side, well, there's this process and this process and we're working through and bringing these people together.

And I just want to say that part of it is not -- a lot of times it could just be that we're not quite confident in our understanding of what's being asked by any country.

But a good chunk of that also is once we do get that -- and I think a clear example of that is, like, in the Section 139E, General Welfare Exclusion Act, the law itself says, hey guys, if there's ambiguity here, defer to the tribal governments.

So, we get that. I think one thing I just want to explain is sometimes a lot of the thinking that's going on is not what that sentence says, but all right, how do we make it so that when we're not in the room and others who are looking at what the regs are, and the others might also be inside our house looking at questions and audit, I think it's sort of trying to make it so that they understand what that means.

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Because a sentence that says defer to tribe, it may be clear, but the one thing I've learned about the IRS is that everything's a process, everything's a procedure. And so, trying to think that through takes some time. So, just wanted to point that aspect out. And thank you for having me here.

MS. ABBAS: Thank you, Krishna. We appreciate all of your hard work and learning about federal Indian law. I've been doing tax notes podcasts to try to catch up on tax laws. You're learning federal Indian law, so appreciate the partnership.

Again, just to check on time. So, we had the subcommittee updates. We do want to get to the public comments.

So, I think the TTAC has very brief updates for each one of the subcommittees. But I'm just going to turn to Chairman Allen to chair that part of the agenda.

CHAIR ALLEN: Yeah, I suspect that most of the issues that we would report on have been discussed throughout the day.

I know, talking with Scott, we know where we are with the GWE committee issues and guidance. So, I think the only thing that we have to report as far as our committee goes, is just our follow-up in terms of next steps, where Scott and his team are at.

And I think it's as simple as that from my perspective, Fatima. I'd turn to our colleagues, in terms of reporting out on the

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tax parity and reforms, to see -- who's chairing that one? I can't remember.

MS. ABBAS: That's Councilwoman Cora White Horse.

CHAIR ALLEN: Cora?

MS. ABBAS: Yes, I got your name right. Maybe you become White House.

MS. WHITE HORSE: I get called White House a lot, especially here in DC.

I guess we had a consultation last month regarding the new policies. And we have a consultation on Friday with the Treasury regarding the long-term, part-time -- is that how it is, yeah -- on 401(k) rules regarding tribal workers, tribal employees.

And we've put in a lot of work. But I think that -- well, I guess this issue would have a significant impact on governmental plans sponsored by Indian country. And like I said before, these get really expensive for tribes.

And the governmental plans have never been subject to mandatory participation investing rules. And the long-term, part-time rules create new burdensome requirements for a small segment of tribal employees.

For example, many tribes have a group of tribal

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member employees who work for the tribe in different temporary positions at different times of the year -- like our summer workers, our summer school workers, our workers who work only during the school year, like part-time, who teach culture in the schools, or work with the youth.

And we're still required to, because of the law, we're still required to pay the retirement or let them use the 401(k) plan, which creates an extra burden when they're not considered full-time employees.

And sometimes our temporary employees are hired for four weeks, six weeks, nine weeks, three months, and they're let go and they start another program.

And sometimes they're like hired and fired four or five times a year. And we still have to offer them the same plans.

The temporary positions typically were not treated as benefits-eligible previously, but are now covered by the long-term, part-time employee rules.

And as a result, tribal staff are now required to perform additional administrative work to address the long-term, part-time rules for their temporary employees, and process additional 401(k) plan enrollment, which impacts the tribe's finances and resources.

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The LTPT rules strip tribes of their sovereign authority over employee benefits, state and local governments are not subject to comparable rules in their 4-5-7 plans.

The application of the LTPT rules to tribal government plans came as a surprise to many tribes and retirement industry providers, which is creating compliance concerns for government funds.

We believe that there's still work that needs to be done with Treasury regarding these LTPT rules, including potential moratorium or delayed effective dates for tribal government plans. And that was discussed earlier.

And hopefully, we do get a moratorium so we can figure out how to fix it to benefit tribes, our employees, and the federal government's need to govern us.

MS. ABBAS: Thank you, Cora. And I know we have the consultation this Friday. And I think there's willingness to have IRS and OTP engagement on the tribal consultation feedback with the subcommittee. So, we will work on that.

Chairman Butler, I don't know if you had any further comments for Tribal Economy.

MR. BUTLER: Yeah. No, I mean, as Chairman Allen pointed out, we've touched on most of the issues throughout the

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conversation this afternoon.

I would say that from the Committee's perspective, the subcommittee's perspective, and Treasurer Tucker touched on it in his opening remarks, we don't want to water down the current conversation on the Travel HR Charter Corporation and GWE regs.

And so, we've kind of been slow-rolling, revamping the subcommittee at large. But I think the key is getting that consultation on the books that Treasurer Tucker had mentioned, specifically on the Travel HR Corps, just to have that dialogue and have that engagement before something comes out.

And so, eventually we will circle back to the broader tax parity issues. There's the slot tax threshold that's been brought up by many tribes that affects more than half the tribes in the country.

It's a threshold that was established when I was born and has stayed the same, not adjusted for inflation over 40 -- I'm not going to finish that statement -- but 40-something years.

And so, I mean, in our understanding, is that something the Secretary or the Commissioner can do when they're given authority? And so, there's some simple things like that that we'd like to clean up pretty quickly. But yeah, our focus is primarily the travel corporations.

MS. ABBAS: Thank you, Chairman. We will work

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with Stephanie on the follow-up for the meeting between this Committee and -- yes, Chairman Allen.

CHAIR ALLEN: Well, to add to Chairman Butler's comments, without a doubt the travel corporation issue is a front-burner issue. But legislatively, we are definitely pushing the envelope of clarity from a legislative or statutory perspective.

And as that continues on, we are going to be in need of Treasury be in support of these kinds of legislative clarifications.

That seems to be a lot of our problem, is statutes don't work well together. And so, we know that when it comes to tax parity issues, that's something we need to fix and we need Treasury to be onboard with us when we get to that point when there eventually will be hearings on that topic.

MS. ABBAS: I know you have your tax legislative counsel to the left.

MR. VALLABHANENI: It's my middle name.

CHAIR ALLEN: Oh, man.

(Audio interference.)

MR. VALLABHANENI: Yes, the reason the tax code is awful is because of me. Yes, you can say it. (Audio interference.)
Just for the record.

MS. ABBAS: We will obviously recognize the

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importance of tribal corporations, but we can also schedule meetings with the right folks on the other issues that the subcommittee works on.

On that, moving to public comments, I know that Councilor Tina Abrams from the Seneca Nation has to leave very shortly. So, if we are able to take her comment first. Josh, I don't know if you are able to unmute her.

MS. ABRAMS: Hello, can you hear me?

MS. ABBAS: Yes, we can.

MS. ABRAMS: Okay. (Native language spoken.)

Good afternoon, everyone. Good afternoon, U.S. Treasurer Lynn Malerba. Good afternoon, Chairman Rodney Butler. Good afternoon, Chairman Ron Allen, the TTAC Committee, government representatives, and other nations.

My name is Tina Abrams. I'm a six-consecutive-term Councilor for the Seneca Nation.

The Seneca Nation is a member of the Iroquois Confederacy, and we are known as the Keepers of the Western Door. We are also known as the Haudenosaunee Tribes.

As you know, I've attended almost every TTAC meeting, either in person or virtually. And I've given many comments on behalf of the Seneca Nation.

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The Seneca Nation has participated in every TTAC meeting to date to monitor the development and issuance of guidance for the Tribal General Welfare Exclusion Act.

As Chairman Ron Allen mentioned in the beginning of this meeting, this law passed in 2014. And here we are, one decade later, still waiting for guidance.

I was thankful to hear that the draft GWE regulations will be released in early summer. That's great news.

My question is for the IRS. And can we get an answer as to what happens once the guidance is finally issued? What will be the time frame?

For instance, once the final guidance is issued, how much time will Indian Country have to review and revise our programs, to ensure they comply with the new guidance?

In other words, will there be a transition period? And how long will it be? Because I think there needs to be some dialogue between Indian Country and the IRS about this transition period.

For the Seneca Nation, I think we would want at least a two-year transition period, and probably longer, depending on how the rollout of the final guidance goes.

Once the final guidance is issued, will the IRS be going

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to Indian Country to educate everyone about the guidance? And how the IRS will be interpreting the guidance.

Also, how long does the IRS think it will take to educate your own people on the new guidance before they can start enforcing it? Because education of this guidance is going to be a huge important factor.

Lastly, the Tribal General Welfare Exclusion Act directed the IRS to suspend all audits.

I concur with Mr. Micklin's comments. We request that the IRS conduct government to government consultations and suspend all audits.

Consultations should happen within Indian Country on the appropriate time frame for lifting the suspension.

The suspension on audits should not be lifted as soon as the guidance is issued. There needs to be a separate consultation on timeline for lifting suspension of audits.

Can the IRS officials let us know if they will be conducting a separate round of consultations on the timeline for lifting the suspension of audits.

And when we talk about consultation, it should be productive consultation, not check-the-box consultation.

I would really appreciate someone from the IRS

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providing responses to the questions I pose today.

Many of us who monitor these meetings have to report back to our people. And we get asked these questions.

There's rumors in Indian Country that we're going to be taxed and that the IRS is coming after us. So, we need to respond to our people. And I was just asked this question at a counsel session Saturday by our people, and I'd like to report back to my Seneca Nation and our fellow leaders, on what the response to my questions would be.

And I'd like to mention this while I have a room full of government officials and other nations, that the Iroquois influence into the Constitution is rarely acknowledged.

In 1988, one year after the U.S. Constitution Bicentennial, the U.S. Senate passed a resolution recognizing that the U.S. republic was influenced by the Iroquois Confederacy, and that many democratic principles were incorporated into the Constitution itself.

Those core principles undergird a system for protecting the very heart of democracy, a government structured for the people and by the people, also focusing on the seventh generation, a concept that dictates decisions must be designed to yield the benefit of seven generations, for sustainability.

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And I just remind you that when we're making decisions -- and this is a big decision and a big policy that really needs consideration and lots of thought -- and with consultation from Indian Country.

So, (Native language spoken) for my comments and giving me some time.

MS. ABBAS: Thank you, Councilor Abrams. I'll turn to Scott Vance if he's able to answer any of those.

MR. VANCE: Yeah, thank you very much. A lot to unpack there but I'll take my best stab at it.

So, the way the process works is the proposed regulations come out, and as you anticipate and describe, eventually there will be final regulations.

As far as what does a transition look like and what's the timeline, that is definitely something that's open to inclusion in the guidance consultation and whatnot. I think you're right on.

That could include anything from grandfathering to transition, to allow time for any necessary or desired changes to plans that are out there that fall under GWE.

I don't have a final answer for you on what that looks like now. But that is something that is part of the discussion to date as we work on a guidance. And we certainly welcome input as to

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what that looks like, whether it's anything, from a true grandfathering rule to a transition period extending over a period of time.

On the audit side, I can't really comment on that because that's our client's -- Commissioner Killen's -- organization.

We do have a role in the training effort and a seat at the table, because a lot of that training on the substantive matters will depend on what the final guidance looks like.

I would have to defer to Commissioner Killen and Commissioner Werfel to comment on what the suspension of audits moratorium impact and the timeline on rolling out, what that looks like. But again, we do have a seat at the table and some input on that. And I think Krishna had some thoughts too.

MR. VALLABHANENI: No. Just to answer the -- maybe this is the answer the Councilwoman is looking for. And usually, Congress doesn't say a whole lot of useful things.

But here, in Section 4(a) of the Tribal General Welfare Exclusion Act of 2014, it says that, on this last point -- I'll just read it.

Secretary of the Treasury shall suspend all audits and examinations of a new tribal government to members of Indian tribes -- I'm skipping over some lines -- relating to the exclusion of payment of benefit from an Indian tribal government under the General Welfare Exclusion, until the education and training required,

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which Scott mentioned, is completed.

So, the audits, they will not start until then. I don't know what the timing of that is. And so, that I totally agree is within the purview of Commissioner Killen and his team there.

But the audits, it's not necessarily tied to the regulations, because I am assuming the regulations will inform what the training is. The audit suspension will only begin once it's completed. Once the training is completed.

MS. ABBAS: Thank you. And if Carmen and Steve have any follow-up on that question?

MS. ZUCKER: Sure. Thanks for the opportunity. I think I just want to reiterate what Commissioner Killen, and just to use his exact words when we talked about training with respect to DWE, he mentioned that IRS will engage, will partner, and will consult with Indian Country on training. So, we remain committed to doing that.

With respect to the form of the training and the outreach to Indian Country, that's something, again, that we will work with the TTAC and Indian Country on.

MS. ABBAS: Thank you, Carmen. Chief Malerba?

MS. MALERBA: And this is Chief Malerba. I thank you, Tina, for your comments. And one of the things that we commit to, as the Office of Tribal and Native Affairs, is working very closely

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with all of the Treasury offices that are involved, to make sure that the training is meeting lineage of Indian Country. And we will be happy to host a consultation on that.

MS. ABBAS: Thank you. Councilor Abrams, didn't know if you had a follow-up. If not, thank you for the comment, and thank you to the IRS folks and Krishna for the responses. I believe we have another tribal leader online. Oh, sorry, Chairman Allen?

CHAIR ALLEN: This seems to be a theme here, Chief. Councilor Abrams is raising a good issue -- really, a good point -- with regard to, get the regs published, and then train the agents, get that completed. Meanwhile, the audits are in suspension. So, I appreciate Krishna's reading out of the statute itself.

And we envision, don't do any harm here until you know what the rules are. And there's certain things that we would like to engage with the IRS with regard to what the trend should look like.

But there's some things we can't shape into the training until the regs are done. Because the point I made earlier, lavish and extravagant, or the applicability to IGRA, etc., those kind of things that we have to sort through, or even the issues with regard to other agencies -- Social Security Administration, SSI payments, and those kinds of things that should do no harm.

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So, we have a lot to do before you can actually get to the actual training, before you can get to lifting any suspension of audits. So, to me, there's a lot of work to be done.

Now, some can be done simultaneously in prep. But the details, you have to wait until we get the regs done and published, and then you can move this process forward.

So, we have a ways to go here, quite frankly, in terms of scheduling.

MR. ALLAN: Mr. Chairman, thank you guys so much.

There's been a lot of talk about collaboration, personal commitments, commitments to everything. You just said you welcome the input.

Maybe I'm missing something. TTAC was formed to give collaboration, to give input. And we can't give any input if we haven't seen any of the regulations.

We haven't seen anything. You guys are all in a room doing all these things, and it would be nice to be involved in that. That's what the Madam Chair from the Seneca Nation was talking about. We're kind of left in the dark.

And when I talked to my Senator from state and he said, hey, we'll put you on the committee, that was my understanding, that was his understanding, that we were going to be part of that

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collaboration and that input.

And quite frankly, like I said earlier, it's a lot of talk. We can talk collaboration, we can talk commitments and personal commitments, but until we see anything -- we can help. I mean, he says it's kind of vague. If it's a gray area, follow what the tribe says.

Well, that's why we're here, to offer that input. So, Madam Treasurer, if you can take that to leadership and -- I mean, it's frustrating.

We sat here all day. And I just wanted to make that point one more again. It's like, if this is truly a TTAC, if this is truly a committee to offer collaboration and offer input, we need to do that. Because right now, we haven't. So, thank you.

MS. ABBAS: Thank you, Chairman Chief Allan. I believe we have Chairman Carla Keen of the Cow Creek Bank of Umpqua Indians on the line, who would like to make a comment.

MS. KEEN: Thank you. Good afternoon, and thank you, Madam Treasurer, Fatima, and Chairman Allen, and public TTAC members.

Our tribe is the Cow Creek Bank of Umpqua Tribe of Indians, and we have the Umpqua Indian Development Corporation, as UIDC, which is a Section 17 corporation, which all of our tribal businesses fall under.

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In the past, when applying for a new EIN, all we had to do was to put the Umpqua Indian Development Corporation name in the box to identify ourselves.

And now, when we apply for the new EIN, we received instructions from the IRS on filling out the form, the SS-4, that we had to put in a managing member and a Social Security number.

When reviewing the current SS4 Form, we cannot identify that there was any new or different instructions compared to the one done in 2019.

The process to obtain the IRS EIN has changed in a way that we feel may negatively impact our tribe's sovereign right.

In the past, our tribal council passed a resolution to obtain the EIN from the IRS, then re-register the business with the State of Oregon as a foreign LLC.

Now, with a board resolution, we register with the State of Oregon, then with the state document of the existing FLLC, we will apply for the IRS for the EIN.

We were told by the IRS agent that without the state registration FLLC, we wouldn't be able to get the EIN.

The tribe should not need to subject itself to the state to obtain an EIN.

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The IRS website handling the EINs cannot meet the tribe's businesses LLC registration request. We have to use the form and fax it to the IRS to get the EIN. It takes a longer time and we do not know if the IRS received the fax or not.

Hopefully, in the future the IRS will update its website to handle the tribal needs, business needs, and without the need to go through the antiquated way of faxing. Thank you.

MS. ABBAS: Thank you, Chairman Keen. I'll turn to Carmen, if there's any follow-up, who would be the right point-of-contact for that issue.

MS. ZUCKER: Thank you for the comments. We actually recognized some time ago some of the issues with registering for an EIN on our -- virtually, webpage -- and as a result of that, we got this feedback from Indian Country, and our office created a web video that provides instruction as to how you can get an EIN, for tribes in particular.

If you do not have access and still have difficulty getting the EIN, you can feel free to contact my office and we will help you work through that.

MS. ABBAS: Thank you, Carmen.

(Off-microphone comments.)

MS. MALERBA: Chairwoman Keen, could you just

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send us a letter detailing that process so that we understand it and understand -- this is Treasurer Malerba -- because I wonder if other tribes haven't experienced the same issue.

So, having that in writing and your experience would be helpful for me. Thank you.

MS. KEEN: Yes, we can do that. I would like to know why the IRS is requiring us to go through the State before we can apply for a federal EIN number.

MS. ZUCKER: I think I'd have to look at that question. But I don't believe that we would require you to go through the State to get an EIN. So, if you could perhaps --

MS. KEEN: I will -- I'm sorry. I didn't mean to interrupt you. Go ahead.

MS. ZUCKER: If you could perhaps reach out to us, or we can get your contact information and help you work through that process. Because I don't believe that that was the way the process works to get an EIN with the IRS.

MS. KEEN: I will make sure that we follow up on that with you. Thank you very much.

MS. ABBAS: Thank you for the comment. We will connect you. I see Will Micklin has a comment.

MR. MICKLIN: Thanks. I just wanted to add that

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registration with the State is an issue. We haven't registered a Section 17 since 2019. So, I can't add any information on the current EIN process for IRS, but for central council, we cannot register our Section 17 corporation with the State of Alaska. They will not permit it.

We are registered in the State of Washington. I can tell you in the State of California, the State requires you, you cannot register as a foreign corporation for Section 17 without registering with the State, submitting to the State registration and form submission for a corporate filing and minimum tax requirement, and essentially a waiver of sovereign immunity for that process.

So, there's a vagary from state to state. And clarifying the IRS process for directly obtaining an EIN from the IRS is a substantial issue for tribes. Thank you.

MS. ABBAS: Thank you, Vice President Micklin. We'll next go to comments in person. We'll start first with tribal leaders, and then others who have comments. So, if there's any tribal leaders in the room? Yes, if you just want to come up to the microphone.

(Audio interference.)

MR. PALMER: We're on? Okay. Good afternoon. My name is Brian Thomas Palmer, I'm the Assistant Chief of the

Seminole Nation of Oklahoma. Thank you all for being here. It's really a pleasure to address each of you. So, I thank you for your consideration and your time.

I do have a formal submission that I would like to present to you. However, in light of the time and the comments that have been heard, I don't want to be redundant by sharing anything personal and specific.

But I would like to, again, just thank you for your consideration with these tribal consultations. It is a little bit disappointing to see the empty chairs, since this is something that is scheduled, something that we've made time for. So, I would like to express that as well.

But this could be a historical moment for Indian Country and the U.S. government, for U.S. Treasury to truly implement some change and to have these raw consultation moments. If we plant the seeds today, we're going to have the fruit tomorrow.

And so, I implore you to just take these consultations serious and be fruitful, and to stay on task. And that's all I would like to say. So, thank you. And I would like to, if you don't mind, approach and submit.

MS. ABBAS: Thank you. We appreciate you being here.

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(Off-microphone comments.)

MS. ABBAS: Just a quick confirmation. In the past, we've posted tribal comment letters online if they felt comfortable. Is this a comment? Okay, just wanted to make sure. Okay.

So, we did get confirmation that tribal leadership is comfortable with us posting this. So, it'll be included in the record and posted to the website. Thank you for that comment.

I think Rob Porter was about to get up with a comment.

MR. PORTER: You're getting used to that, look at my eyes. (Native language spoken.)

Thank you all very much again for your time and attention to these important matters.

I have, as you know, been working with the Lummi Nation in coordinating the Tribal Economic and Tax Reform Advocacy Alliance, and we work on issues relating to what TTAC is doing but also on Capitol Hill. I just have a few brief comments that are not necessarily connected, but just as a reflection of what I've heard today.

A couple things related to TTAC's work in relation to the GWE, I'm glad to have heard the

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comments from the Seneca Nation about the audit process, what happens after the regs. As a former, well, still a little bit of a law professor, but also someone who was in the room when that training, education requirement was being written, I want to just highlight the importance of it.

It isn't just that it's about putting a afternoon training together, it's really about equalizing the knowledge level of everyone who's working with tribal nations, in the service. And if you think about it in terms of how American citizens are wired into understanding say, how state governments work and the years of your primary and secondary and higher education associated with federalism and history and the nature of which the states are entities of sovereignty, you know, within the American system.

I just want to just read briefly the language from the statute that Krishna rightly points out is required. Because it's really a two-step process, it isn't just that the training occurs, it's really that the curriculum be

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developed. And the law says that the training and education for Internal Revenue field agents who administer, enforce Internal Revenue laws with respect to Indian tribes on federal Indian law and the federal government's unique legal treaty and trust relationship with Indian tribal governments.

There's a lot there. And I'm not saying that you need to recreate, you know, a ten-year program, but it is something that should be taken seriously for everyone. I hope by now, after TTAC has evolved this far, that those of you who are newer to this area of sovereignty and law and history appreciate the need for the curriculum to really be developed. And that could, honestly, be developed, you know, start developing it now.

You know, and there's a lot of, my colleagues, former colleagues in, you know, the academy, professors who are able to provide guidance to you in this process, working with tribal leaders. It would take a long time just to develop the curriculum, so I just flag that for you as a task item.

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The -- a couple of other things, again, that are sort of random. The Tribal Economy Subcommittee, one of the things that's a little bit unclear is your interactive commitment with the rest of us. And I'm not sure whether it's kind of just because it's new, but I think it would be great for us to be able to help you, in terms of there's a lot that we've been doing in relation to just different issues. And I think the idea of the TTAC, opening it up beyond dual taxation, which is still a big problem, into tribal economies gives us an open door to bring an awful lot of other tribal leadership, you know, other experts who could you give you good content, as we start formulating good recommendations.

So, I don't know whether, you know -- I think we're all pretty happy with dear tribal leader letters, but just even a Zoom call, you know, just putting the word out that you're looking for more feedback and interaction with us.

Thirdly, I want to add a new issue that, actually there's an NCAI resolution on this as it

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relates to the auditing and oversight of the IRS Chief Counsel's Office and its litigation positions, with regard to Indian tribes and individual Indians. It's still, outside of the General Welfare Exclusion Act, those audits are still going on as it relates to Indians and Indian country.

And I realize it's an adversarial position, but one issue for example that really is just fundamentally wrong, is when the IRS as a arm of the Treasury, as an arm of the federal government, takes litigation positions against Indians who are exerting treaty rights. Treaty rights, particularly as it relates to free commerce, free use and enjoyment of the land, when you have the trust -- the treaty partner actually attacking the people for whom the promise was made, with regard to that treaty position.

And it seems to me the IRS Chief Counsel's Office should get prior approval, like from the Secretary herself, before the United States government attacks an Indian or Indian

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Nation over treaty rights. And so, it's a work project I just want to just flag for you, I've brought it up before, but in the scope of this work we got to get to the hard stuff. And the super hard stuff is when the government is attacking Indian people and tribes over these issues.

A couple more quick things. The Capitol Hill work that we're doing, there's two things that really come to mind. I know you don't write the laws over here at the Treasury Department, but you do offer technical assistance from time to time. So, H.R.8380, the Tribal Tax and Investment Act was submitted by Gwen Moore and Dave Schweikert, and we're going to ask that they ask you for technical assistance.

And so, just know that's coming, because we really want to, maybe not this year, be ready next year for tax reform, when the Tax Cut and Jobs Act expires. There wasn't much in that bill at all, in fact nothing, as it relates to Indian Country, and we want -- we would like to have Treasury and your team mobilized in the

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right areas, to provide that technical assistance and to also engage with the Hill when the time comes, in that process.

And then, lastly, I want to put a plug in for what I hope we all believe to be true which is, it's really great to have an Office of Tribal and Native Affairs in the Treasury Department. And we really need to make it permanent, and I know, again, you don't make the laws, but we really need to get that moving on Capitol Hill, to make sure we get sponsors.

Because it is so essential, it is such a great thing to see, that we now have an incubator of work product and opportunity for engagement through the TTAC, and we just need to, I think, try to make it as permanent as we can in the law to ensure that Indian Country, tribal nations and leadership always have an opportunity, from the great work of the members of the Committee right now, to build upon that and to keep it moving in the future.

So now, I thank you for your time, and

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glad to continue to follow the discussion.

MS. ABBAS: Thank you, Rob, for those comments. And we'll work with the dual -- not dual taxation anymore, the Tribal Economy's Subcommittee co-chairs on your request. And definitely, we'll be on the lookout for any technical assistance request to Krishna on the legislation, so thanks again.

Again, if others have comments, please come up to the mic.

MS. JOHN: (Native language spoken.)

Hello, everyone. My name is Morgan John, I am the Deer Clan, I am an enrolled citizen of the Coushatta Tribe of Louisiana, and I'm also here in representation of the Coushatta Tribe of Louisiana.

One of our leaders who really wanted to be here, who also sits on the USET SPF Board of Directors as Treasurer, couldn't be here, Crystal Williams. And so, I'll be speaking on behalf of my people and her as well.

You know, we came from a very small

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rural area, very economically depressed. We had a sort of basket economy, pine needle and raffia, that's the way that most of the women and the people in my community, you know, provided sustenance for their families. And we've been slowly rebuilding our economy ever since, you know, and it is quite difficult to do so whenever we're heavily constructed by a lack of guidelines and partnering between agencies.

You know, I stand on the shoulders of many generations that came before me, and I carry them with me, and we have always been here, we are still here. And we always have that conversation, people way above my pay grade, they even -- that's usually where they start is, we're still here, and I think it's time to move past that and to go beyond that and say we are here and we will remain here, and as such, so should Indian policy. It should remain a permanent part of American policy, it should remain a permanent part of taxation, you know, policy, regardless of who is in the position, in power, whatever party wins, and we remain

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nations, you know.

I'd like to thank all of you here for your time and commitment, you know, they are leaders of their nations as well, so it's taking time away from their duties to their people. And just like any other political entity, any other government, we have a responsibility to our constituents, to our people, you know. And we are trying to build strong tribal economies, which is the most American part, I believe, of the economy here.

And I would like to say that it would be nice to see these leaders and their time and their experience, not only just listen to but actually truthfully taken into consideration, that we see tribally informed tribal general welfare guidelines. And we see any guidelines, any regulations that are made that impact governments, they also impact tribal governments, that we are taken into consideration each time that's made.

We can no longer be forgotten, it's not acceptable.

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And forgive me for being a little bold on that, but thank you for all your time and remember that we will be here. So, thank you. (Native language spoken.)

MS. ABBAS: Thank you, we appreciate those comments. And I think a few of you at the beginning of the meeting saw me kind of break down after Cora's comments. And I think that your words are basically what her comments were about and what I was reacting to, which is the fact that native women in South Dakota are dying as they're giving birth is not because they're genetically disposed to be dying, this is about resources.

And the conversations that all of us are having in these rooms are about resources and it's, you know, we're like, trying to change tax guidance that never considered tribal people. And it's so hard but, you know, when you hear those statistics. And in these rooms and in our office, we're in these rooms and we will be in the room to talk about, you know, how those with allotments are classified. And our staff is all native, and

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to hear the reference to native people is like, you have to numb your mind. But this is very, you know, important work and so we're committed to doing that with our IRS colleagues and our Office of Tax Policy colleagues.

But, I think that what we're all doing is important, and so just going to send the Treasurer, like, a message about like, how embarrassed I was like, oh my gosh, I cried. But it's because this work is important, so, anyway, thank you for your comment.

MS. MALERBA: And there's nothing wrong with being passionate about what you say, so never apologize for that. I am every day.

MS. ABBAS: Thank you, again. If there's other comments -- yes.

MR. TEO: Good afternoon. Harris Teo from the Yakama Nation. I don't represent the Yakama Nation; that's where I'm from. What I'm here representing is the individual Indians of the Yakama Nation that own and operate tribal businesses. And our treaty is very unique -- I'm

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going to continue my treaty discussion that we had last time I was here.

Our treaty is very unique in that it recognizes individual Indians, on par with the tribe. Our minutes say that, that they'll -- that the federal government will recognize individual Indians the same as the tribal government. And the reason for that was, we started at the mouth of the Columbia River and we went all the way to the Canadian border and into the Canadian border, our people.

We didn't know these people very well, on both ends. So, at the treaty discussions it became very important that the individuals be recognized the same as the government. So that's how it was written and that's how we live yet today, we still live that way today. So, one thing that, after our last meeting, we're very appreciative of the IRS. We had a discussion about the issues that our individual business is having with the state-regulated fuel terminals in each state, not just Washington but each state.

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We're a fuel distributor, we asked the IRS, there's one little item that they could fix in the regulations at the fuel terminals, and that's just to add tribal operated fuel companies, tribal licensed fuel companies, just add them as a recognized company, to come into access the fuel terminal. And we're appreciative that the IRS reached out to us and are continuing that conversation, but it's very important that we continue it at a fast track because the states are still harassing this tribal-owned, treaty-recognized fuel company that has a Supreme Court win.

And for hundreds of years we were told that the Supreme Court is the law of the land, the rule of the land, but we're recognizing today that that may not be totally true, until the federal government steps in and begins to assert their trust responsibility and protect the Indian from the state harassment.

So we need that conversation to move and continue to move in a, I don't know if you'd

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call it a fast track, it's probably fast track for the feds, it probably really is. I mean, we're -- you're not used to that, we're used to that.

We like to move things really quick, we'll move them from day to day in a hurry. And if it means coming back here to meet with you folks, we're willing to do that. If it means coming here every day, we're willing to do that, until we can get to that point so that you can be responsible to me, to our children. You know, just assert your federal trust responsibility, that's all we're asking. That's all we're asking.

Ron made a statement one time, he's having trouble keeping me out of jail. I don't need your help, Ron, thank you. Thanks for thinking of me, though.

CHAIR ALLEN: I ran out of bail money.

(Laughter.)

MR. TEO: And it's great to see all your folks, it really is. It's great to see you, Chief, Krishna, Fatima, all you folks that work for us, you know, that are trying to help us. We

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appreciate that, our children appreciate that, you know, we need you. We need you to be on our side.

On our side.

And it's not asking for favors, we're not asking for favors, it's asking to recognize our elders' words that they put on a piece of paper with you in 1855. Recognize those words and stand up with them with us, stand up the way we ask. You know, we were promised that and that's what we're looking for, uphold the promise.

We're upholding our end, we're not going to war with nobody, even though -- we made that promise in 1855, we wouldn't war with anybody, and we're not yet. Don't leave us out there too long, though, you never know. Thank you, folks.

(Laughter.)

MS. ABBAS: Thank you, we appreciate your comments, and that you traveled all the way from Yakama Nation. Krishna?

MR. VALLABHANENI: Just have one correction from what you said, sir. Chairman Allen said way more than just one statement, he

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can't go two minutes without saying something. So, just wanted to clarify that for the record.

MS. ABBAS: I know ITG is in communication with you, so we'll follow up on your request with ITG on that, thank you. And I think there's another commenter?

MR. RAMSEY: (Native language spoken.)

Tribal leaders, good afternoon, Chief Malerba, Chairman Allen, and another TTAC participants. I won't take up too much time, I don't want to sound like an echo from my elder here, Harris. My name is Sukoleen Kip Ramsey III, I am from the Yakama Nation, I work with Cougar Den Fuel, I act as a COO. My grandfather, who owns it, is also a tribal enrolled member.

My family has a long history of entrepreneurship, engaging in Indian trade and creating numerous native-owned companies serving Indian country. Through shared resilience these essential enterprises engaged in intertribal trade have survived, despite improper state prosecution in attempts to tax our treaty-protected travel and

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trade.

Cougar Den is a tribal fuel distribution company owned by my grandfather and family, Cougar Den has fought and won at the U.S. Supreme Court, and different state and federal courts, vindicating its treat-protected right to travel and trade. Yet, the IRS still taxes Cougar Den's income, derived from the exclusive exercise of its treaty right.

I truly appreciate Ms. Carmen Zucker and the IRS in meeting with us to discuss this issue, and again I ask the continued support for implementing an income tax exemption for the Yakamas, like the IRC 7873 for the income derived from treaty fishing. Thank you, guys. And, like I said, I appreciate the continued support. Your leaders are an inspiration. Thank you.

MS. ABBAS: Thank you, we appreciate that comment. Do we have any follow-up -- did you have a follow-up? Oh, no, you were just getting up for him to sit down. Any other commenters in the room or online?

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(No audible response.)

MS. ABBAS: Great, I think we have taken all the public comments. Again, thank you for everyone who's spoken today. The next items that were on the agenda were to establish the public meeting dates, we will check with the TTAC on their availability and that will get publicly posted.

We did change the last public meeting date, just to be able to accommodate more folks, because it conflicted with a major holiday. So we will do a holiday check this time.

And then, last is the approval of the minutes from the last meeting. If there's a motion and a second for that approval?

MR. BUTLER: So moved.

CHAIR ALLEN: I'll second.

MS. ABBAS: All those in favor?

(Chorus of aye.)

MS. ABBAS: Perfect. That passes. Thank you. And I'll just turn it to Chairman Allen for any final closing, along with the Treasurer, before we adjourn.

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CHAIR ALLEN: Well, I would just like to say thank you to everyone, including our, those that attended and participated in our public comment.

We, as I mentioned earlier, it seems like every time we come we learn a little bit more.

We learn a little bit more about where we are and the complexity of the various issues that we're dealing with, with regard to taxation, status, jurisdiction issues, and so forth. And the most important thing is that we're at the table, we're having a conversation, the right people were at the table, and it helps us move our agenda forward.

I'm appreciative of this administration in terms of the attitude that it brings to the table with regard to recognizing tribe sovereignty. We will keep pounding on the table about our sovereignty, about our jurisdiction, about treaty right and treaty commitments that have been established and confirmed historically.

And we're in the 21 century, it's a

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different venue now than what it was 20, 30, 40, 50 years ago. And I just want to underscore, from my perspective, the sophistication of tribes has exponentially grown, and with regard to how we manage our government to our accountable, how we continue to take control over our destiny. And we're doing better, but as we -- success brings higher expectations and it also brings the greater realization of how much more we have to do to help our people, help our communities.

Cora and others have emphasized, you know, that, for the most part, Indian countries in rural America. And so, sometimes we find ourselves last in line and yet we still are here to survive, we're here to better our ability to make a difference. And so, I appreciate these meetings, I appreciate all who spend time, that come to the table, help us figure out how we're going to make it happen. And it's not about why not, it is about how to.

And so, I just deeply appreciate it, I appreciate the leadership. And I know I've said

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this many times, I was talking to Krishna earlier, every time we get into this conversation the word complicated keeps surfacing. And so, I guess, from my perspective, we're a can-do people and we will unpack the complications to the point where we can get it done, and find ways that we are on the same page singing from the same song sheet.

Thank you.

MS. MALERBA: So, I just wanted to say thank you to all of the tribal leaders, and your passion for your people, because that's really what it's all about at the end of the day. And thank you to my federal partners for being here and being willing to help solve problems with me, because that's what it takes.

You know, we need to solve the problems that are in front of us, we need to reduce the barriers for our tribal -- for our Indian countries so that we can rebuild what we lost. And that's what everyone's all about, is, you know, rebuilding our nations to be the strong nations that they once were.

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So, I appreciate everyone here today.

I appreciate everyone's patience, nothing happens quickly I found. And, you know, being a former critical care nurse, I'm very impatient, so it's really hard for me to be patient. But we will get there, and you have my commitment to work as hard as I can on your behalf.

MS. ABBAS: Thank you, Chairmen Allen and thank you, Treasurer. And on that, the meeting is adjourned. Thank you all.

(Whereupon, the above-entitled matter went off the record at 4:37 p.m.)

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