

UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY

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TREASURY TRIBAL ADVISORY COMMITTEE

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PUBLIC MEETING

+ + + + +

TUESDAY
MARCH 14, 2023

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The TTAC convened in the Cash Room, Treasury Building, 1500 Pennsylvania Avenue NW, Washington, D.C., at 1:00 p.m. EDT, W. Ron Allen, Chairman, presiding.

TTAC MEMBERS PRESENT:

W. RON ALLEN, Jamestown S'Kallam Tribe; Chair
SHARON EDENFIELD, Confederated Tribes of the
Siletz Indians; Vice Chair
WILL MICKLIN, Central Council of Tlingit Haida
Indian Tribes of Alaska*
JEAN SWIFT, Mashantucket Pequot Tribe *
STEPHANIE WILLIAMS, Alabama-Coushatta Tribe of
Texas

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ALSO PRESENT

ADEWALE ADEYEMO, Deputy Secretary, Department
of the Treasury
KRISHNA VALLABHANENI, Designated Federal
Officer
FATIMA ABBAS, Department of the Treasury
JAMES COLOMBE, Department of the Treasury*
SHAUN DESCHENE, Department of Commerce
JULIE HANLON-BOLTON, IRS*
JOSH JACKSON, Department of the Treasury
RACHEL LEISER LEVY, IRS
RICHARD LITSEY, Social Security Administration
MARILYNN "LYNN" MALERBA, Treasurer of the
United States, Department of the Treasury
TRICIA MILLER, IRS
LISA MOJIRI-AZAD, IRS
JENNIFER PARISIEN, Department of the Treasury*

MORGAN RODMAN, White House Council on Native
American Affairs*
CARMAN ZUCKER, IRS

* present via video-teleconference

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

2 1:03 p.m.

3 MR. VALLABHANENI: All right. Thank
4 you, everybody for joining us today. My name is
5 Krishna Vallabhaneni. I'm the designated
6 federal officer for the Department of the
7 Treasury Tribal Advisory Committee. This is our
8 10th meeting of the TTAC, as we call it. Seated
9 to my left is Deputy Secretary, and as you can
10 imagine, he's extremely busy this week, in
11 particular, let's say.

12 But before we can do anything, I
13 need to establish a quorum for the TTAC to
14 actually have this meeting. So I will start by
15 calling out members, and if they could just
16 indicate that they're present, that would be
17 great. Vice Chair Sharon Edenfield?

18 VICE CHAIR EDENFIELD: Here.

19 MR. VALLABHANENI: Rebecca Benally?
20 Will Micklin?

21 MEMBER MICKLIN: Present, thank you.

22 MR. VALLABHANENI: Stephanie

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1 Williams?

2 MEMBER WILLIAMS: Here.

3 MR. VALLABHANENI: Jean Swift?

4 MEMBER SWIFT: Present.

5 MR. VALLABHANENI: Chairman of the
6 TTAC, Mr. Ron Allen?

7 CHAIRMAN ALLEN: Here.

8 MR. VALLABHANENI: All right, thank
9 you, sir. I'll now invite Ms. Williams to offer
10 a tribal opening.

11 MEMBER WILLIAMS: (Speaking off mic)
12 -- for our tribal nations and government. We
13 ask for Your presence in today's gathering. We
14 ask for Your blessings on each person
15 represented here today. Guide us and lead us in
16 our conversations and fellowship throughout our
17 meeting today. I ask all these things in Jesus'
18 name. Amen.

19 MR. VALLABHANENI: Thank you very
20 much, Ms. Williams. Without much ado, I am
21 going to turn it over to Deputy Secretary Wally
22 Adeyemo for some opening remarks.

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1 DEPUTY SECRETARY ADEYEMO: Well,
2 thank you so much. Good afternoon, Treasury
3 Tribal Advisory Committee members, tribal
4 leaders and attendees. It's a privilege to kick
5 off the first Treasury Tribal Advisory
6 Committee meeting of 2023. For the past two
7 years, our administration has committed to
8 strengthening its relationship with tribal
9 nations to support tribal economic growth and
10 self-determination. This partnership is
11 especially critical as the Department leads the
12 federal government support for tribal recovery
13 through the administration of the \$30 billion
14 in direct set-asides benefitting over 2.7
15 million tribal citizens.

16 Let me repeat that again, \$30
17 billion in direct set-asides benefitting over
18 2.7 million tribal citizens. In many ways, this
19 is a down-payment in efforts that we should've
20 been doing for a long time through the federal
21 government. And in late February, I had the
22 privilege of speaking with the first tribal

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1 youth delegation to Treasury. We heard how
2 tribes are utilizing the flexibilities provided
3 by Treasury to provide a range of flexibilities
4 to tribes using ARP funds to support their
5 youngest citizens.

6 In early March, in celebration of
7 the second anniversary of the American Rescue
8 Plan Act, I had the honor of conducting my
9 first visit to tribal lands, and I look forward
10 to my next visit, as well. During this visit,
11 we discussed how tribal nations are deploying
12 American Rescue Plan resources to support
13 workforce development, housing and broadband to
14 develop the infrastructure necessary to sustain
15 and grow tribal employment. Treasury's external
16 support of tribal communities was made possible
17 through our internal investment in our
18 government-to-government relationship with
19 tribal nations.

20 This began with the hiring of four
21 tribal citizens to advise on delivery of our
22 funds to tribes and expanded to President

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1 Biden's nomination of Chief Lynn Malerba as our
2 nation's treasurer, which always deserves a
3 round of applause in my book.

4 (Applause.)

5 DEPUTY SECRETARY ADEYEMO: For the
6 first time in our nation's history, a tribal
7 leader and a Native Woman's signature will be
8 on our country's currency. Chief Malerba is
9 standing up our new office of Tribal & Native
10 Affairs to make permanent our support for
11 tribal and native economic growth. For the
12 first time in the history of the Department, we
13 will have an office dedicated to these issues.
14 Now, returning to our focuses to tax.

15 In November of 2022, Treasury held
16 three tribal consultations on the
17 implementation of the Inflation Reduction Act.
18 In December 2022, we followed up with three
19 tribal consultations on the implementation of
20 the Tribal General Welfare Exclusion Act to
21 inform the development of regulations. In
22 February of 2023, we conducted tribal

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1 consultation on TTAC's dual taxation report.
2 During my visit to tribal lands in March, I
3 heard extensively about the intersection
4 between dual taxation, limited access to
5 capital, and the importance of tribal
6 enterprise as vehicle for generating government
7 revenues.

8 Going forward in 2023, we look
9 forward to issuing tax guidance informed by the
10 robust feedback from tribal nations to provide
11 access to the benefits of the IRA and certainty
12 on tribal general welfare programs. We welcome
13 the opportunity to continue developing our
14 understanding of tribal economics through
15 government-to-government engagement and through
16 the advice of the Treasury Tribal Advisory
17 Committee.

18 Thank you for the opportunity to
19 speak to you today, and I look forward to
20 hearing from the members of this group.

21 (Applause.)

22 MR. VALLABHANENI: Thank you, Mr.

1 Deputy Secretary. I am going to turn it over to
2 Chairman Allen and the other members of the
3 TTAC to share some comments.

4 CHAIRMAN ALLEN: Thank you, Krishna,
5 and good to see you, Deputy Secretary. I want
6 to express my deep appreciation for your
7 leadership and your support. We know that early
8 on in this relationship and this administration
9 that you and the Secretary understood the
10 importance of tribal sovereignty, our
11 jurisdiction, our goals of self-governing and
12 self-reliance agenda to really become
13 independent nations as we always were
14 historically in America.

15 Treasurye and IRS has a key role, so
16 all the rescue monies and the infrastructure
17 monies, the broadband monies, the inflationary
18 reduction legislation, et cetera, all that have
19 a major impact in Indian Country, unprecedented
20 for Indian Country, and we have deep
21 appreciation. We do have a lot of work to do,
22 so we are deeply appreciative that the general

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1 welfare legislation established this advisory
2 committee.

3 We have deep appreciation that you
4 helped lead the charge in getting the Native
5 American office established in Treasury,
6 setting a precedent for future administrations.
7 So I just want to say thank you for that. We
8 have a lot of work to do, a lot of clarity
9 that's needed with regard to legislation that
10 we hope that this administration will help
11 champion, as well. While we start dealing with
12 the final regulations, the general welfare
13 doctrine, the deal with the dual taxation and
14 tax priority issues and inattention issues and
15 on down the line.

16 So thank you. We appreciate your
17 leadership. We appreciate the opportunity to
18 keep working with you and the Secretary. Lynn,
19 we just have deep appreciation that yes, now
20 our currency is good. They're not wooden
21 nickels anymore. So anyhow, so thank you very
22 much. I'll turn it over to my colleagues.

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1 Sharon, you want to lead off?

2 VICE CHAIR EDENFIELD: Good
3 afternoon. It's an honor and pleasure that
4 you're here with us today. I can tell you, I
5 haven't been out of my bubble from COVID for a
6 long time, so this is a new trip for me for a
7 long time. But I really appreciate you joining
8 us today. I co-chair the GWE Committee with
9 Chairman Allen, and you talked about the
10 consultation that your staff has done. It was
11 very positive feedback that they're coming back
12 to us and we'll be able to meet with them and
13 go over whatever questions that Treasury has.

14 So I really look forward to that,
15 and I really appreciate you working with us to
16 get these things ironed out for Indian Country.
17 So thank you.

18 CHAIRMAN ALLEN: Stephanie?

19 MEMBER WILLIAMS: Mr. Deputy
20 Secretary, again my name is Stephanie Williams.
21 I'm from the Alabama-Coushatta Tribe in Texas.
22 I just want to thank you for your attendance at

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1 our meeting today. It's truly an honor to speak
2 with you in person. In reading about you in
3 your bio, I was impressed with your previous
4 work with the Obama Administration and your
5 service on boards and foundations that promote
6 protection of Americans from unfair financial
7 practices and promoting equity in social,
8 political, and economic issues.

9 Tribes across the United States are
10 seeking your assistance in promoting fair and
11 equitable solutions in government-to-government
12 relationships with tribes. We hope that you,
13 along with Secretary Yellen, can continue to
14 support tribes with your efforts. Again (Native
15 language spoken), thank you again for your
16 attendance.

17 CHAIRMAN ALLEN: Thank you,
18 Stephanie. And in no particular order, online
19 we have the rest of our committee members. So
20 I'm going to call upon Rebecca Benally? Is she
21 not on? Okay, then Will Micklin?

22 MEMBER MICKLIN: (Native language

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1 spoken) In English, my name is Will Micklin. I
2 am Vice President Council of the Tlingit Haida
3 Indian Tribes of Alaska, with the original
4 tribe in Southeast Alaska, 35,138 square miles,
5 35,000+ tribal citizens. I thank you for your
6 attention to what I believe is an incredibly
7 important collaboration between tribes and our
8 federal trustee, which is the TTAC. I am
9 pleased and hope you also appreciate the
10 progress that is being made in these issues of
11 engagement between tribes and our federal
12 trustee.

13 The General Welfare Exclusion was an
14 important step. The dual taxation report that
15 we are in our final stages moving to its
16 questions of its application. Tribal Pensions
17 Report that we hope to be adopted today, and
18 questions ensuing on the implementation of tax
19 policy and administration is important and
20 meaningful for tribes.

21 I thank you for your support for
22 this committee and allowing us to contribute

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1 our experience and our time to this effort,
2 which I think will be productive both for our
3 federal partners, as well as the tribes that we
4 hope to represent by our participation. (Native
5 language spoken.) Thank you very much.

6 CHAIRMAN ALLEN: Thank you, Will. And
7 last, but not least, I'll turn to Jean Swift.

8 MEMBER SWIFT: Good afternoon, Mr.
9 Deputy Secretary, Treasurer and honorable
10 guests. My name is Jean Swift. I'm a member of
11 the Mashantucket Pequot Tribe in Southeastern
12 Connecticut. I'd like to mention two brief
13 topics, and I appreciate the opportunity to
14 make these remarks. First, I want to mention on
15 the TTAC's Dual Taxation Report that was
16 submitted in 2019, a re-consultation of this
17 issue was brought to tribes just last month.

18 The central issue of the Dual
19 Taxation Report really deals with tax parity.
20 The report explains that in addition to
21 economic considerations, tax parity between
22 governments is an important consideration.

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1 Allowing outside governments to tax on
2 reservation is unique only to Indian Country.
3 This does not happen between states, for
4 example. Legislative reforms are now underway
5 to help to address and hopefully correct this
6 issue. An example is HR 4054.

7 The second topic I wanted to mention
8 to you is, first, I wanted to say thank you to
9 the Treasury for making and establishing an
10 Office of Tribal & Native Affairs. It's a very
11 important resource for tribes, and it's a vital
12 link to Treasury. I would ask that the
13 Department please consider making this a
14 permanent office. Thank you for your time.

15 CHAIRMAN ALLEN: Thank you, Jean. So
16 one last item before you have to leave. We know
17 that our seventh colleague is in the works, so
18 we have high hopes that that individual will be
19 appointed by the time we get to our next
20 meeting. So meanwhile, we look forward to your
21 guy's help on getting the four that are up for
22 reappointment, they get that done expeditiously

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1 so that we are hopeful to have a meeting in
2 September following our June meeting, as well.

3 DEPUTY SECRETARY ADEYEMO: Well,
4 thank you so much for having me and for all the
5 consultation, both in this format, but
6 throughout the year on the number of issues
7 that we face. I think my hope is to join you
8 again soon, but to also go into the communities
9 so that they know what is true, that Secretary
10 Yellen and I were proud to provide the \$30
11 billion in resources. But what we also want to
12 provide is an enduring relationship between
13 your governments and ours that will be through
14 our Treasury Department.

15 So I appreciate the short time I
16 spent with you today, but I even more
17 appreciate the ongoing relationship between the
18 Treasury Department and your governments. So
19 thank you for having me.

20 CHAIRMAN ALLEN: And thank you.

21 (Applause.)

22 CHAIRMAN ALLEN: So I think at this

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1 point, do I turn it back over to you, Krishna?

2 MR. VALLABHANENI: Sure. Well, we'll
3 play hot potato with this.

4 CHAIRMAN ALLEN: We will.

5 MR. VALLABHANENI: I have -- it's now
6 my pleasure to introduce the Treasurer of the
7 United States--I like to say it that way--Chief
8 Marilyn "Lynn" Malerba.

9 CHIEF MALERBA: Thank you very much,
10 Krishna, or as my family likes to say, Totus.
11 (Native languages spoken.) Greetings, everyone.
12 My name is Chief Many Hearts Lynn Malerba from
13 the Mohegan Tribe. I acknowledge the first
14 peoples of this land, including the Anacostia,
15 Piscataway and our neighboring Virginia tribes,
16 because of course, we all know the state
17 boundaries weren't a thing back in the day.

18 So we want to include everyone, and
19 we thank all their related ancestors and
20 stewards of the land that we meet on today. So
21 thank you all for being here. Our committee
22 members, our tactical advisors, our

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1 governmental partners, our federal partners,
2 and our guests. We're thrilled that you're
3 here. We're thrilled that we're meeting in
4 person once again. As you heard, our Office of
5 Tribal & Native Affairs is now fully funded,
6 which is really wonderful.

7 I think that's a testament to the
8 Secretary and the Deputy Secretary for living
9 up to what they have committed in writing. But
10 they have said that they were committed to this
11 office. They are committed to this office, and
12 it is my daily experience that they are
13 committed to the whole of Indian Country. And
14 they are looking for us to partner throughout
15 the federal government to make sure that all of
16 the relationships are working and that we can
17 cut down some of the barriers that may be
18 impacting economic development on our lands.

19 As you heard Deputy Secretary talk
20 about his engagement in Indian Country, he
21 visited two California tribes. He is very
22 anxious to come visit other tribes in other

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1 regions. He had his first ever meeting with the
2 Center for Native American Youth and Champions
3 of Change, and he participated in a talking
4 circle with that group of young people. They
5 were very impressed and very happy to share
6 their remarks with him, and very brave, I
7 think, given the ages--some were high school
8 kids--that they were willing to share their
9 thoughts about what's going on in their
10 communities.

11 You've heard a little bit about the
12 multiple consultations we've had. I know that
13 many of you have been on those consultations.
14 The feedback that we get is so important, and
15 so I always urge you to make sure that you
16 weigh in. If you can't be on the call, please
17 make sure that you're sending in written
18 comments because we use those comments to help
19 draft policy here at Treasury. We also use
20 those comments to underscore how important
21 those issues are.

22 So never, ever underestimate the

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1 power of your engagement with our Department
2 here. It matters, and hearing from you allows
3 us to make sure that we're advancing the
4 priorities and the needs of Indian Country. We
5 have had multiple tribal delegations here at
6 Treasury, and we are always excited and happy
7 to welcome tribes into our home. So if you want
8 to come visit with us, please feel free to make
9 an appointment. We would love to have you.

10 It's not easy to get in the
11 building, but we'll get you in, right, Ron?
12 We'll get you in. Both Fatima and I participate
13 in the White House Council on Native American
14 Affairs, and that has been very helpful to us.
15 The principals meet, but then there are ongoing
16 committees that meet at the same time and in
17 between meetings to make sure that we're
18 advancing the policies of this administration,
19 but that we're doing so in a way that reflects
20 the needs and wants of Indian Country.

21 We are participating right now in an
22 access to capital initiative, and that again,

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1 is a multi-department, multi-jurisdictional
2 initiative to talk about what capital is
3 available to tribal nations, where does it
4 reside, what are the barriers to accessing it,
5 and can we put together a database so that
6 tribes can easily access this information.
7 Because as we found out, there is no such
8 database, but that doesn't mean that there's
9 not going to be one. We are working on that,
10 and that's kind of like the last phase of that.

11 Our goals for the next six months
12 are a lot of engagement and travel throughout
13 Indian Country. We are providing, we are going
14 to be providing education within Treasury
15 regarding our consultation policy, the nation-
16 to-nation relationship, basic Indian law in
17 collaboration with the Treasury Office of
18 General Counsel and the Department of Justice.
19 Krishna has been engaged in some of those
20 conversations, but we are looking to talk with
21 every department within Treasury that has any
22 reason that they would be engaged with tribes.

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1 So this will be a very large
2 initiative within Treasury, but it will be one
3 that is really valuable to Indian Country. We
4 will be focusing on the work of the Treasury
5 Tribal Advisory Committee. We're looking to
6 increase tribal government understanding of the
7 Inflation Reduction Act and the bipartisan
8 infrastructure law to ensure the uptake of
9 eligible programs and tax credits and
10 deployment of funds throughout Indian Country.

11 We have already increased our
12 engagement with the Senate and House Committees
13 of jurisdiction so that we ensure timely
14 ability to provide technical assistance
15 whenever there is legislation being proposed,
16 because the one thing that we did find with the
17 ARPA funds is were we able to provide technical
18 assistance at the beginning of that legislative
19 process, we would've been able to kind of iron
20 out some of the issues that we have been
21 subsequently addressing since then.

22 As you heard, we have had a lot of

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1 feedback on all of the consultations, so we are
2 developing a record of that feedback. We will
3 go out to Indian Country to make sure that we
4 are understanding that what we heard is what
5 you said and how we might be able to
6 incorporate your feedback into ongoing policy.
7 So I want to make special note of everyone who
8 works very hard to make this meeting happen.
9 Krishna Vallabhaneni, Fatima Abbas, Josh
10 Jackson, the Treasury Events team and the
11 Treasury Travel team, as well as our committee
12 members and their technical advisors.

13 There's a lot of work that happens
14 in between these meetings. I'd like to
15 acknowledge all of our partners, both here in
16 person and virtually, the White House Domestic
17 Policy Council, Bureau of Indian Affairs, IRS,
18 Tax Policy, Social Security Administration,
19 OMB, SBA, Commerce, all of the tribal
20 organizations and very importantly, all of the
21 tribal leaders who are so thoughtful in their
22 comments and their response to our

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1 consultation.

2 I would like to formally recognize
3 the first Director of the Office of Tribal &
4 Native Affairs, Fatima Abbas. That is worthy of
5 some applause.

6 (Applause.)

7 CHIEF MALERBA: While she was
8 recently acknowledged as the leader, she's been
9 the leader, trust me on that, for the last two
10 years. And I'd also like to recognize Josh
11 Jackson, who is in the back of the room, Jen
12 Pariésien, and Jim Colombe, who are on the
13 phone with us today because they have done the
14 work of angels, and a lot of hard work getting
15 all of these programs in the door and out the
16 door in a way that has been expeditious and
17 sensitive to the conditions that tribal
18 citizens face and tribal governments face.

19 So I look forward to the discussion
20 today and as always, the financial health of
21 our tribal governments is really, truly at the
22 heart of providing for our tribal citizens. So

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1 we never forget that that's our purpose and
2 that's why we're here. So (Native language
3 spoken) thank you all for being able to provide
4 a few words. I would turn it over to Fatima to
5 see if she'd like to offer a few comments.

6 MS. ABBAS: Thank you, Chief Malerba,
7 so much for those comments. I just wanted to
8 provide a brief update about some of the work
9 for our tribal office. As Chief Malerba
10 mentioned, it's been permanently funded. It is
11 staffed by the four members of the Office of
12 Recovery Programs Tribal Team, so that's Joshua
13 Jackson, James Colombe and Jennifer Parisien.
14 Our priority remains providing support for
15 tribal governments on all of the recovery
16 funding, from compliance support for close-out.

17 CARES Act right now is going through
18 close-out Year A1. Support on use of funds and
19 then on all of the reporting for the life cycle
20 of these programs. Second, we are focused on
21 tax issues this year, so providing assistance
22 on the Inflation Reduction Act guidance as

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1 applicable to tribes. The General Welfare
2 Exclusion regulations, and then I would also
3 like to announce that we will be commencing a
4 tribal consultation on the tax status of
5 tribally chartered corporations.

6 There has been a lack of certainty
7 for over 30 years for tribal governments, and
8 we want to ensure consistent with Treasury's
9 and IRS' approach on the GWE regulations that
10 we take tribal feedback before regulations are
11 drafted. So we will be noticing a Dear Tribal
12 Leader letter on that. So that's our focus for
13 this year. We look forward to working with you
14 all. Back to Krishna.

15 MR. VALLABHANENI: Thank you,
16 Director Abbas. What I'm about to say is
17 probably a statement against my interests here,
18 but having the opportunity to work with the
19 Treasurer and the Director and the whole team,
20 I can definitely say that they truly do--what's
21 the word I'm looking for? They are the great
22 ambassadors for Indian Country to sort of

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1 explain a lot of the things that us others
2 don't comprehend necessarily. It's just been a
3 pleasure, and I hope to continue the dialogue.

4 Before we get to federal agency
5 updates and the rest of the agenda, one thing
6 we do need to do is approve the minutes from
7 the October 26, 2022 meeting of the Treasury
8 Tribal Advisory Committee. The members have
9 reviewed the minutes, I believe. I've reviewed
10 the minutes, and absent objection from any
11 member, I would motion to approve the minutes.

12 CHAIRMAN ALLEN: And we will second.

13 MR. VALLABHANENI: The minutes are
14 approved and will be available on the TTAC
15 treasury.gov website. I don't know exactly how
16 long, but there's some technical processing
17 that needs to occur before a document can be
18 published. Otherwise, they should be up as soon
19 as we can get them up. Next, I'd like to invite
20 Morgan Rodman from the White House Council on
21 Native American Affairs to provide comments or
22 share any updates.

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1 MR. JACKSON: It doesn't look like
2 Morgan has joined us online just yet.

3 MR. VALLABHANENI: Got it. Hopefully
4 he may, if he's able to log on or join us, we
5 will be able to hear from him. Is Richard
6 Litsey from the Social Security Administration?
7 Got a chair for you here, sir, if you'd like to
8 make some comments.

9 MR. LITSEY: Thank you very much for
10 inviting me to the meeting today. I really
11 appreciate it and frankly, I didn't know I had
12 a card here at the table, but that's very nice
13 and I really appreciate that. Update on my
14 office, I'm newly appointed as the Native
15 American Partnership Director. We're off to a
16 slow start. I've just been in the job for about
17 a month, but we have the help of Nancy
18 Berryhill and Renee Ferguson.

19 They've already done a tremendous
20 job of getting the office started. We're at the
21 moment getting our action plan together and
22 trying to start doing some outreach. And right

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1 now we're establishing the office structure.
2 I'll be administering the policies and programs
3 related to American Indians and Alaska Natives,
4 and strengthen the tribal consultation. We need
5 to improve our service delivery, access to our
6 programs and awareness of our programs.

7 A lot of American Indians aren't
8 aware of what we do and it's pretty amazing. I
9 have to tell you that I came out of retirement
10 for this job. I've been retired for five years,
11 and a friend of mine said hey, have you seen
12 this? I said no, I haven't, so send it to me. I
13 said okay and it was very similar to what I
14 used to do on the finance committee with
15 Senator Baucus, very similar. I really enjoyed
16 that work, and I'm looking forward to my new
17 job here

18 I'm very excited about it, and I
19 couldn't ask for two better people than Renee
20 and Nancy to help me with this program right
21 now. But we're going to do a lot of outreach
22 and we're going to do some recruiting at tribal

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1 colleges and universities, universities that
2 have high Native populations. We're going to
3 create some regional partnerships, which we've
4 already done some of that with Public Affairs
5 Office. We're going to increase tribal
6 representation on SSA's National Disability
7 Conference.

8 Basically I'm serving as the point
9 of contact for tribal leaders and stakeholders.
10 It's a big job. There's a lot of ground to
11 cover, as you all know. When I was doing this
12 sort of work before, it was just mainly with
13 Senator Baucus in Montana. But once the word
14 got out, I started getting a lot of other
15 tribes coming into the office for meetings, and
16 I ended up going to a lot of other
17 reservations, tribal centers all over the
18 United States.

19 I look forward to doing that job
20 again. Again, thank you very much for inviting
21 me today. It's good to see familiar faces, as
22 well. Thank you.

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1 MR. VALLABHANENI: Thank you very
2 much. Let's see, my throat's slightly a little
3 sore, so I'm going to switch it slightly. I'll
4 provide a Treasury Office of Tax Policy update,
5 but I think maybe I'll let my colleagues from
6 the IRS go first on their updates. Turn it over
7 to Carman Zucker.

8 MS. ZUCKER: Thank you, Chairman
9 Allen. Thank you, Madame Treasurer and TTAC
10 members. We at ITG are honored to be here. My
11 name is Carman Zucker. I am the Acting Program
12 Manager of the IRS' Office of Indian Tribal
13 Governments. I'll provide a few updates on our
14 office. We continue our modernization efforts
15 by, among other things, offering tax ~~payee~~
16 digital communication to our tribal customers
17 and offering virtual outreach and education.
18 For example, later this year we will provide
19 sportsbook and employment tax workshops.

20 We are also going to continue our
21 use of social media to provide information. For
22 example, this past December we posted three

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1 YouTube videos with topics of significance to
2 Indian Country. We will continue to provide
3 information to our tribal customers via our web
4 page and newsletter. So I urge you to visit us
5 at irs.gov/tribes and subscribe to our
6 newsletter.

7 Another matter for your awareness is
8 an update on the staffing of our office. We
9 have lost staff due to retirement, and thus we
10 are continuing our attrition hiring. I mention
11 this because you are likely to see new faces at
12 the front line and managerial levels. I also
13 want to assure you that all the new hires
14 receive protocol training to ensure that our
15 staff are trained to work with tribes on a
16 government-to-government basis.

17 I also want you to know that our
18 mission remains the same. We are committed to
19 continue to assist tribal governments meet
20 their federal tax responsibilities, guided by
21 the principles of respect for Indian tribal
22 self-government and sovereignty. Thank you.

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1 CHAIRMAN ALLEN: If I might, Krishna,
2 and welcome, Carman. Congratulations on being
3 appointed to this position, picking up where
4 Teully and ChristieKristy left off in terms of
5 the importance of the office as a key liaison
6 to IRS on a variety of issues. I found it
7 interesting that you referenced the sport
8 betting, which is a new venue that's emerging
9 in Indian Country casino operations.

10 I can tell you there's another area
11 that we need upgrading, updating, if I can put
12 it that way, guidance on the paperwork
13 necessary for the winnings that patrons have
14 experienced at the casinos. I think--I can't
15 remember the number--I think it's like \$600 or
16 something like that. It's exhausting paperwork
17 for those operations. We know that the Las
18 Vegas--the casino industry is trying to adjust
19 that because of how difficult it is and how it
20 needs to be raised.

21 It's an old guidance by IRS. We're
22 speaking specifically from the tribal

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1 perspective. It slows our operations down in a
2 huge way, and it's just not realistic in
3 today's venue, if you will. So anything you can
4 do, or Lynn, or Krishna? It's something that we
5 need IRS to step up and take a hard look at it.
6 I know we've heard that IRS has taken the
7 position that it needs statutory guidance, but
8 our understanding the first guidance that was
9 established didn't require the statutory
10 criteria. So if you could look into that, that
11 is something that's very important to tribal
12 operations.

13 MS. ZUCKER: Thank you, Chairman
14 Allen.

15 MR. VALLABHANENI: Does anyone else
16 from the I'll call it the commissioner's side
17 of the IRS, want to say any words?

18 CHAIRMAN ALLEN: I will. I'm not from
19 the commissioner's side, but now that we have--

20 MR. VALLABHANENI: I don't know.

21 CHAIRMAN ALLEN: Now that we have a
22 duly-appointed commissioner, we would like to

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1 make a formal request to have the commissioner
2 come to our next meeting scheduled in June. We
3 hope that we can engage with him. We know that
4 he knows a little bit about Indian Country, but
5 as you pointed out in terms of the value that
6 Lynn and Fatima bring to Treasury about
7 understanding Indian Country, we definitely
8 want the commissioner and his senior officials
9 on his team to have a better understanding of
10 what we're trying to accomplish, which includes
11 the topic that we've raised regarding the
12 standing of tribally chartered corporations,
13 which is something we're anxious to get
14 resolved.

15 MR. VALLABHANENI: I will work with
16 Carmean and other folks at the IRS to see if we
17 can make that happen for June or whenever we
18 can make it happen, but definitely try for
19 June.

20 CHAIRMAN ALLEN: Okay, thank you.

21 MR. VALLABHANENI: Thank you. Now
22 I'll turn it over to, oh I'm going to butcher

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1 her last name, but Lisa Mojiri-Azad, who's got
2 a different name card here, so just ignore
3 that, but from the IRS Office of Chief Counsel.

4 MS. MOJIRI-AZAD: Thank you, Krishna,
5 and thank you everyone for having me here. As
6 you know, I'm from IRS Office of Chief Counsel,
7 Income Tax & Accounting. Our office has
8 jurisdiction over Section 139E of the Internal
9 Revenue Code relating to Indian general
10 benefits. Our office also has jurisdiction over
11 disaster relief tax payments and tax treatment
12 of such payments.

13 We have been working with our IRS
14 colleagues and Treasury colleagues. We've
15 comprised a working group, which includes
16 Fatima and a number of our other Treasury
17 colleagues, that is exploring the guidance that
18 is needed under Section 139E relating to Indian
19 general welfare benefits. We have reviewed over
20 60 comments that were received in response to
21 the recent consultation, and as the Treasurer
22 mentioned, we do take every single comment

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1 seriously.

2 We have reviewed every single
3 comment, have prepared issues lists, and we
4 have now also reviewed the TTAC draft from the
5 GWE Committee several times. Something that our
6 working group would find very beneficial would
7 be to schedule a meeting with the GWE TTAC
8 subcommittee to go over the draft and some of
9 the questions and issues that have been raised
10 for us in reviewing the comments. So let me
11 leave it at that. I don't know if Carman or
12 Fatima want to add anything on our progress and
13 work on the expected guidance. Thank you.

14 MS. ABBAS: This is Fatima. I'll just
15 add that we really appreciate the robust
16 feedback that we got from tribes. We had over
17 64 written comments, and then the verbal
18 consultations were very in-depth. So we're
19 doing a thorough review of all of that and that
20 will inform the guidance. When that guidance is
21 promulgated, it will be subject to public
22 feedback and another tribal consultation on the

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1 guidance.

2 So we will do an additional
3 consultation before that rule is final, but we
4 know the impact on tribal government and
5 individual tribal citizens. So we are putting
6 in a ton of labor to try to get to the best
7 result possible. Back to you, Krishna.

8 CHAIRMAN ALLEN: If I might, Krishna,
9 and thank you, Fatima and Lisa, also known as
10 Chuly, I guess. Well, we appreciate that. A
11 couple of things that we would like to share.
12 We appreciate the fact that 60 sent in
13 comments, but we would also note that we worked
14 hard at communicating with Indian Country
15 regarding our recommendations for a draft. We
16 appreciate your willingness to work with our
17 subcommittee.

18 Sharon and I and our technical/legal
19 team with regard to reviewing the
20 recommendations, with regard to what the
21 guidance should say. I know that we need to
22 provide clarity about our thinking what the law

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1 says so that one of the primary objectives as
2 we get into this conversation is the authority
3 of the tribes. Lavish and extravagant is an
4 interesting comment that's in the law. There's
5 probably mixed feelings about what they thought
6 it meant. But for us, we believe that it should
7 be driven by the tribe's values on what lavish
8 and extravagant should be.

9 There are some other complications--
10 not complications. There's other matters that
11 need to be cleared up, as well. Like when
12 tribes have these wrap programs with regard to
13 the Indian Gaming Regulatory Act, with regard
14 to dividends per capita, I should say, to
15 tribal citizens. Now tribes are shifting a lot
16 of those resources into programs to serve their
17 citizens. They fall clearly under the GWE
18 exemption criteria. So we need to make sure
19 that we're clear about that.

20 We need to have that conversation so
21 that when we get to the point where we're
22 training and educating the IRS agents when they

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1 go out and do the audits, that they are doing
2 it in a responsible, respectful way with regard
3 to the uniqueness of every Indian nation that
4 has a program. So there's a lot of issues in
5 that. So what we'd like to do is making sure
6 that we're on the same page, not just our
7 subcommittee, but our full TTAC.

8 Concurrency that okay, this is the
9 right draft to send out to the tribes for
10 consultation, which I think that's what you
11 were referring to, so that we can get it out to
12 tribes. We're working hard to communicate
13 through NAFOA, Native American Finance Officer
14 Association, and NCAI and the regional
15 organizations that are very active in this
16 arena.

17 So we look forward to, I guess, work
18 sessions to have that conversation. I'll just
19 leave it at that. I thank you and thank your
20 willingness in the support of engaging. We're
21 very anxious. We get a lot of feedback, we as
22 committee members, to get this done and get it

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1 sorted out. I'm sure you, as well, would like
2 to get there.

3 MS. MOJIRI-AZAD: Yes, and actually
4 something that came out in the majority of
5 comments is the uncertainty that the community
6 and Indian Country is dealing with without the
7 guidance on GWE. And so that is something I
8 think the IRS and Indian Country have a common
9 interest in addressing and providing for
10 workable, legally sustainable guidance. Thank
11 you.

12 MR. VALLABHANENI: Thank you. Is
13 anyone on the Zoom from the IRS Office of Chief
14 Counsel who would like to share any thoughts?
15 Okay. Enough stalling from me then, I guess.
16 I'll get to the Office of Tax Policy update. As
17 I said previously to the members, we're not
18 doing a whole lot these days. That was a joke.
19 But yeah, that's actually my specialty, saying
20 things and then having to say it's a joke after
21 that. So I apologize for the initiation there.

22 It has already been articulated by

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1 both Chairman, Treasurer, Deputy Secretary, in
2 the tax world, in the Office of Tax Policy and
3 at the IRS and the IRS Office of Chief Counsel.
4 Aside from what you would possibly call the
5 day-to-day operations of the tax system, the
6 most dramatic thing or challenge we are working
7 with is full implementation of the Inflation
8 Reduction Act signed into law in August.

9 For most provisions, I think the
10 vast majority of provisions, at least on the
11 tax side, there were other departments involved
12 with that legislation, but we are strictly
13 focused on the tax provisions, tax incentives.
14 Virtually all of them are in the form of tax
15 credits. There is a deduction in there that was
16 amended for energy-efficient commercial
17 buildings under Section 179D. But that
18 provision was a pre-existing provision that had
19 some alterations to it.

20 But there are a whole slew of
21 expanded tax credits, as well as just brand-new
22 credits that are part of that legislation. A

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1 lot of it has to do with not simply focusing or
2 policies focusing on energy or conservation or
3 even climate. There are a whole lot of other
4 policies that Congress wanted to see
5 implemented. It's requiring a lot of
6 interagency--I'm trying to look for the word
7 here--not just consultation.

8 There's just technical expertise
9 that tax people don't have, like how do you
10 define forms of hydrogen, for example. That's
11 just a random question I picked. But there are
12 a lot of scientific expertise, a lot of--we're
13 working with the Department of Energy. One
14 thing I wanted to mention, I understand that
15 the resiliency of the electric grids, et
16 cetera, is an important issue around the
17 country and also in Indian Country.

18 I think part of the bipartisan
19 infrastructure law that the Treasurer mentioned
20 earlier does include programs for strengthening
21 the electric grid. I don't have the details on
22 those, but I'm just aware of that. So that's

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1 something that may be of use to communicate
2 with the Department of Energy for more
3 information. But I just wanted to make that
4 announcement. We're working with DOE, we're
5 working with the Environmental Protection
6 Agency, the Department of Transportation,
7 Department of Labor.

8 It's even in some cases some of the
9 provisions relate to manufacturing sourcing of
10 certain materials that are used in products
11 that are either manufactured or used for
12 generating renewable electricity. So we're even
13 involved with the National Security Agencies in
14 the federal government. So it is your all of
15 government approach. When you hear the
16 President say something to that effect, that's
17 not a joke.

18 It's a very real and--the more chefs
19 you have in the kitchen, things can get
20 complicated. But we are trying to get guidance
21 out on all of these provisions as soon as we
22 can. In the legislation there are particular

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1 rules that would appear to have been included
2 primarily to support projects and activity in
3 Indian Country. But they are also--the point I
4 want to make is there may be projects for--I
5 don't want to use the word set-aside, because
6 these are not, typically they're not allocation
7 projects.

8 They are tax credits so the general
9 approach of the Internal Revenue Code is that
10 once someone builds the thing or the project or
11 the facility, they can claim a credit. One
12 important innovation in the Inflation Reduction
13 Act that's worth mentioning is that
14 governmental entities don't pay income tax. So
15 they don't file like a 1040 return with the
16 IRS, so there's nothing to claim a credit. A
17 credit is not very valuable.

18 One thing that the Inflation
19 Reduction Act did for the first time to open up
20 these incentives to entities that aren't
21 subject to federal income taxes is to allow the
22 entity to basically do everything that they

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1 need to do in order to qualify for a credit.
2 But instead of filing a tax return, essentially
3 filing an election to be treated momentarily as
4 you're paying tax to the IRS and then having
5 the IRS actually pay monies out to the tribe to
6 incentivize the building of that facility or
7 power plant or what have you.

8 There's also--much of this is
9 focused not necessarily on, when I say facility
10 I'm not necessarily talking about your
11 structural buildings, et cetera. Those may be
12 part of it, but the real focus is on the actual
13 infrastructure, the technical infrastructure
14 that's going to be generating electricity or
15 creating some product or sequestering carbon
16 out of the atmosphere, for example, that will
17 lead to reduced overall carbon emissions.

18 I can go on, but I'm not sure--maybe
19 I'll just do this. Are there any comments that
20 the members of the TTAC have on the IRA in
21 general?

22 CHAIRMAN ALLEN: Well, without a

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1 doubt the Inflation Reduction Act and all the
2 credit opportunities that can lead to access to
3 capital, which is a huge issue for tribes in
4 terms of advancing our tribal business
5 ventures, as well as tribal operations that
6 could be of great value to us, is an important
7 opportunity. But it's also a complicated
8 opportunity. I think that's what you're getting
9 at.

10 So one of the things that we would
11 urge and encourage as Treasury continues to
12 unfold the guidance and the process, or maybe
13 it's the application process, because it's
14 often very difficult for our tribes to compete
15 against a private sector for these kinds of
16 credits, or even to understand clearly how we
17 can use them and leverage them to get capital
18 investment on our reservations and into our
19 communities. So it is without a doubt a clear
20 opportunity, and it's additional resources with
21 all its complexity that adds to the AREPA
22 monies with regard to investment in Indian

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1 Country, trying to reboot our economy, if you
2 will, and the infrastructure monies.

3 They can overlap, because the
4 infrastructure can add into these kinds of
5 opportunities, as well. And then broadband
6 monies. There's a lot of different kinds of
7 resources that are being made available, and
8 Treasury has a role in collaboration with this
9 history of departments to make this happen. So
10 I'm not sure of the solution from my
11 perspective, but I know that you already noted
12 there's not set-aside. It's just where we are
13 identified as eligible individuals, eligible
14 candidates.

15 MR. VALLABHANENI: Sorry, I try to
16 become an expert on adjectives. So I think I
17 said mostly there's no set-asides. There is one
18 provision that's an allocable credit. Another
19 aspect of a lot of these credits is that
20 they're many potential bonus credits that a
21 particular project can be eligible for. So
22 there would be a base credit and if you do X,

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1 you can get an additional 10%. If you do Y, you
2 get another 10% on top of that. So you can get
3 a large portion of a project.

4 It's an incentive to sort of
5 accomplish the policy of that bonus credit,
6 those would be allowable. But there is a--in
7 the context of wind and solar projects, there
8 is an allocable, I don't want to say I want to
9 see how it can be technical, but also
10 understandable, which the tax law doesn't
11 always allow. The process would be for this
12 program that we stood it up by just providing
13 some general guidance at the end of February,
14 and within I believe in the next couple of
15 months there will be actual application
16 ability.

17 But it is under Section 48(e) where
18 projects that are located in certain geographic
19 areas, which include so-called low-income
20 communities, which is the geographic area to
21 qualify for the new markets tax credit. So
22 that's one category. Another category is Indian

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1 land as defined by reference to one of the
2 Department of Energy statutes. Then there are
3 two other residential housing project
4 categories, which if either of the first two, a
5 new markets category or a tribal land project
6 category, qualify for these other two credit
7 categories, they would be included in one of
8 those two residential categories.

9 The importance of that is the first
10 two categories I mentioned would allow for a
11 10% credit increase, but these second two
12 categories actually allow for a 20% credit on
13 top of the underlying investment tax credit for
14 wind or solar projects. These are focused on
15 relatively smaller projects. I believe the
16 capacity maximum is 5 megawatts. Each year the
17 Treasury Department would be allocating 1.8
18 gigawatts.

19 So we believe, if you just divide
20 1.8 gigawatts by 5 megawatts, that's 300-
21 something applicants. This is sort of intended
22 to--it's going to--we believe it will be over-

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1 subscribed. There are going to be more than
2 300, so we can't just split up the baby, if you
3 will. But there are--so there was information
4 that was put out in February on the general
5 thinking about how Treasury would be proceeding
6 with categories allocating, first accepting
7 applications, which we're not currently doing,
8 but beginning to allocate within certain
9 categories.

10 I think the focus primarily is going
11 to be on those residential, those two 20%
12 credit categories. The actual--there will be a
13 publication detailing the eligibility criteria.
14 I'm sorry, not the eligibility criteria, the
15 criteria for lack of a better word, choosing
16 projects. And I think input, once that is out,
17 input on those criteria would be useful. There
18 are, I'm sorry for talking to myself, but that
19 is one program that is under the auspices of
20 Treasury and the IRS that would be an
21 allocation.

22 The guidance that came out in

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1 February did actually have certain target
2 allocations of the megawatts between the four
3 categories I mentioned. Again, for example, if
4 we're talking--and if I'm remembering
5 correctly, I know it's a pretty detailed
6 definition in the energy statute, but projects
7 on reservations, projects that are essentially
8 controlled by tribal governments that are not
9 necessarily on reservations, all of these types
10 of projects.

11 To the extent that they do qualify
12 for the residential projects, which include
13 projects that are funded by--I'm going to screw
14 this part up--either HUD or DOI BIA for
15 assistance to tribal housing. Those projects
16 also would be included in those 20% categories.
17 So yeah, there's going to be more information
18 and we're working with our partners at
19 Department of Energy and elsewhere to develop
20 that criteria. Sorry.

21 CHAIRMAN ALLEN: Just a couple of
22 comments on the process of making these

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1 resources available to the tribes. I don't know
2 who is all involved with determining the
3 criteria, the ranking, the scoring regarding
4 projects that would be proposed by the tribes.
5 And also--

6 MR. VALLABHANENI: That's the right
7 word, ranking, sorry.

8 CHAIRMAN ALLEN: Yeah, so--

9 MR. VALLABHANENI: I was looking for
10 that word.

11 CHAIRMAN ALLEN: So the issue to me
12 is the eligibility. So a lot of times they
13 would say if it happens on the tribal rez, it's
14 good. But for us, it's not just our
15 reservation, it's our territory.

16 MR. VALLABHANENI: Exactly.

17 CHAIRMAN ALLEN: So there's projects
18 that would be viable, particularly when you get
19 into the conversation about energy
20 opportunities. The viability of projects are
21 not necessarily on the rez. They're around the
22 rez, they're in our territory. So whoever

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1 writes the criteria with regard to the ranking
2 and scoring of these projects so that we become
3 viable in our competing for these resources.

4 I'm sure that the BIA will be
5 helpful on that agenda or HUD programs, if it
6 applies to a housing project, et cetera. That
7 was in the details, and a lot of times it's a
8 dime short and a day late by the time it gets
9 to Indian Country. These policies they get
10 unfolded and they kind of go, we kind of forgot
11 how they should apply to Indians. So we want to
12 make sure that we're in the mix on that agenda.
13 I don't know if any of my colleagues have
14 comments. Sharon?

15 VICE CHAIR EDENFIELD: I just have a
16 question, and I don't remember you saying this
17 before. Indian land is determined by whose
18 policy?

19 MR. VALLABHANENI: I believe the name
20 of the statute is the Energy Policy Act of
21 2005. That might not be accurate, but I can
22 follow up with the right one. But there's a

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1 statutory definition, I guess from 2005, that
2 to me seems pretty broad, but there may be gaps
3 or things that need to be filled in.

4 CHAIRMAN ALLEN: And I can't see if
5 hands are being raised, so I'm counting on
6 Josh, you can--is there somebody's hand up?

7 MR. JACKSON: Yeah, Will Micklin if
8 you want to unmute yourself and turn your video
9 on.

10 CHAIRMAN ALLEN: Will Micklin? You
11 said Will?

12 MR. JACKSON: Yes.

13 CHAIRMAN ALLEN: Okay, Will Micklin,
14 go ahead.

15 MEMBER MICKLIN: Thank you. Yeah, and
16 so the site is to 25 USC 35012 for definition
17 of Indian land. Unfortunately, that definition,
18 while attempting to be forward-looking,
19 excludes tribes that don't have trust lands or
20 tribal lands. It does include Alaska Native
21 Claims Settlement Act corporations, but does
22 not include the great majority of Alaska tribes

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1 because they don't hold lands in trust. By
2 that, I'm referring to around 225 of the 229
3 tribes in the State of Alaska.

4 And there are substantial numbers of
5 tribes in the Lower 48 that don't have lands
6 that qualify as tribal lands under the
7 statutory reference and the current legislation
8 that cites those as guidance. It just means
9 that we need to be very careful that we not
10 construct barriers to tribes in accessing the
11 funds, the federal funds or private capital
12 that should be available for improvement and
13 for the legislation intended by Congress.

14 And where we see those barriers, how
15 we can address those so we can resolve those, I
16 think, largely unintended consequences of
17 restrictions on eligibility that are so
18 meaningful to tribes and are a substantial
19 reason that there's a lot of, a significant
20 amount of appropriations intended for the
21 benefit of tribes that are often returned to
22 the Federal Treasury, not because there's not a

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1 significant need, but because there are these
2 barriers to accessing appropriations, to
3 accessing finance that are difficult to get
4 around without collaboration and engagement
5 between tribes and our federal partners in
6 Congress. I'm hoping that TTAC can engage on
7 this issue. Thank you.

8 MR. VALLABHANENI: Thank you, Mr.
9 Micklin. I guess my final comment, related, but
10 not directly related, but totally fair ball, is
11 something that Director Abbas, Treasurer
12 mentioned earlier about forthcoming
13 consultation on tribally chartered corporations
14 and I would assume other entities, as well.
15 That is important to my understanding from just
16 brief conversations on this topic, is that
17 would be--not that it wasn't important a year
18 ago, but given that there's these tax
19 incentives to accomplish certain goals, and
20 they do have different rules on whether you're
21 this type of entity or that type of entity.

22 So I think the question about well,

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1 what is it from a tax perspective becomes more
2 pressing of an issue. We are aware of that, and
3 like I said, the ambassadors of Indian Country
4 have made us aware of that. The TTAC has made
5 us aware of that. So we are working to--I can't
6 say that when that guidance on the elective pay
7 or transferability of credits, et cetera, comes
8 out I can't say that this will be out there on
9 the same day or something like that. But it is
10 something that we are hoping to actually take
11 real action on this calendar year.

12 CHAIRMAN ALLEN: That's very
13 encouraging. As we talk about these different
14 ventures, the majority of us, if not all of us,
15 conduct our business through our corporations.
16 It's a protection of our liability--

17 MR. VALLABHANENI: Absolutely.

18 CHAIRMAN ALLEN: --with regard to
19 tribes' assets, resources, et cetera. In our
20 judgement, most of them are protected by our
21 sovereign immunity, et cetera. But with
22 corporations, we engage in limited waivers in

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1 order to engage with the business sector to
2 advance different kinds of projects, whatever
3 the projects are, whatever is authorized. So
4 that standing is critically important to move
5 the agenda forward.

6 I don't know, this is outside my
7 wheelhouse, if you will, if the credits can be
8 a value to our corporations. But if they're
9 tax-exempt, there is some ambiguity there other
10 than to leverage it with the investors or
11 partners that we may engage with. So getting
12 that cleared up is helpful. Quite a few of our
13 sister tribes have Section 17 where that's
14 clear from the IRS perspective. But because the
15 tribal charters are still out there being
16 discussed. We just want it dealt with and
17 recognized that it's under our authority. It's
18 potentially a lost opportunity.

19 MR. VALLABHANENI: Thank you. Are
20 there any other federal agency folks who would
21 like to share some thoughts?

22 MR. JACKSON: Yeah, Julie with IRS is

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1 on the line. I just unmuted her so she should
2 be able to make comments.

3 MR. VALLABHANENI: Julie?

4 MS. HANLON-BOLTON: Hey, I'm sorry.
5 This is Julie.

6 MR. VALLABHANENI: There you go.

7 MS. HANLON-BOLTON: Just trying to
8 figure this out. I'm sorry. What was the
9 question again?

10 MR. VALLABHANENI: Did you want to
11 say anything?

12 MS. HANLON-BOLTON: No. We have a
13 fabulous team in Income Tax Accounting that
14 takes tribal issues and affairs very important.
15 Lisa is our expert, along with Karla Meola and
16 some of our other attorneys. So we'll continue
17 to work on all the issues that are within our
18 jurisdiction and maybe some others over the
19 next few months.

20 MR. VALLABHANENI: All right, thanks.
21 I'm going to turn it over--I'm going to stop
22 the torture of not having Chairman Allen speak

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1 because I know it's a little difficult for him
2 sometimes.

3 MR. JACKSON: Krishna, real quick, we
4 have Morgan Rodman, I believe on the line with
5 White House Council on Native American Affairs.

6 MR. VALLABHANENI: Okay, sorry about
7 that.

8 MR. JACKSON: There he goes.

9 MR. VALLABHANENI: There you go.
10 Welcome.

11 MR. RODMAN: Hello? Hi, thank you,
12 Krishna, and then thank you Chairman Allen and
13 the other committee members. Hello, Treasurer
14 Malerba. Just a quick update on the White House
15 Council on Native American Affairs. For those
16 who may not be as familiar with it, it is an
17 interagency body that is co-chaired by
18 Secretary Haaland and Ambassador Susan Rice,
19 who has the Domestic Policy Council. The other
20 committee members of the White House Council
21 are the secretaries and other senior
22 administration officials across the government.

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1 The Council meets at least three
2 times a year, including engagement sessions
3 between Cabinet members and tribal nations.
4 We'll be scheduling those throughout the year.
5 We had three of them last year with I would
6 think pretty measurable success, having that
7 unscripted dialogue between the Council, tribal
8 leaders to influence the direction of policy-
9 making at the highest levels of the federal
10 government.

11 There are six committees on the
12 White House Council on Native American Affairs.
13 I heard Krishna mention the whole of government
14 approach when it comes to issues important to
15 this committee. The Council is the embodiment
16 of that whole of government approach when it
17 comes to tribal nations, tribal communities,
18 and individual native concerns. One of the
19 committees that may be the most relevant to
20 this discussion is the Economic Development,
21 Energy & Infrastructure Committee.

22 I heard Chairman Allen mention the

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1 access to capital initiative, and that is one
2 of the central initiatives of the Economic
3 Development, Infrastructure Committee.
4 Treasurer Malerba and Fatima are involved in
5 that. There was a panel, or an engagement
6 session you might call it, at NCAI last month.
7 There will be another panel at the Reservation
8 Economic Summit next month on access to
9 capital. Department of Commerce is also very
10 active in this.

11 And really the three pillars of the
12 access to capital initiative are promoting the
13 awareness, the access and the utilization of
14 federal funding across the government. Of
15 course, including the resources of the
16 Bipartisan Infrastructure Law and the tax
17 credits mentioned in the Inflation Reduction
18 Act. Those are part of the access to capital,
19 and really connecting tribes, tribal
20 businesses, Native entrepreneurs with the
21 resources in the most effective way possible.

22 There are a number of specific

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1 elements of this initiative that we're getting
2 off the ground. All of this can be found on the
3 White House Council on Native American Affairs
4 website. There is also a directory on that
5 website where you can find representatives of
6 the different departments and agencies who push
7 these matters forward. But wanted to give you
8 just a quick update.

9 If there are issues that are
10 important to this committee that you would like
11 to disseminate or at least raise to interagency
12 level, whole of government level, then again,
13 Treasurer Malerba is very active in the
14 council, as is Fatima. So that's one way to get
15 issues before the full council committee is to
16 use that entryway there. Of course, I'm always
17 happy to engage, as well. I think that's it. If
18 people have questions, happy to take that.

19 CHAIRMAN ALLEN: I have one, Morgan.
20 I was trying to pull it up really quick before
21 you finished. The six subcommittees on the
22 council deal with different subject matters.

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1 I'm just sort of hoping, assuming, that one of
2 them is relative to economic development. If
3 so, there's a number of issues that are on our
4 agenda that I think that we need help as we're
5 trying to work with Treasury and the IRS with
6 respect to tribe sovereignty and our
7 jurisdiction.

8 So there's a number of different
9 areas where we get concerned about do we have
10 the right advocates in the right places. One of
11 my quick examples is the Indian Trader Act,
12 which has not been updated in its regulations
13 since I think '59, if I remember the dates
14 right. It's relative to the kind of economic
15 activities that can happen on reservations. It
16 could tie into taxation authorities and
17 jurisdiction.

18 So on the one hand, we have that
19 under the authority of the Bureau of Indian
20 Affairs. And then there's the role of the
21 solicitor in Interior. Then we have to roll
22 over into the Department of Justice. Do we have

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1 anybody over there that's specifically
2 identified that is going to advocate and defend
3 tribe sovereignty and our jurisdiction? I don't
4 think we do. I think that it falls under that
5 Environmental and Natural Resource Division
6 over there in Justice.

7 So in your various discussions with
8 the parties that are involved in economic
9 development, are we talking to the right people
10 to help us determine what authority the
11 administration has to help clearly define our
12 authority and jurisdiction. So a lot of these
13 conversations we're having here is not just
14 access to capital, but it's also the taxation
15 jurisdiction issues that we wrestle with when
16 states, local governments or even federal
17 government tries to impose any kind of taxation
18 activities in our jurisdiction.

19 I just want to throw that out. I
20 don't know if that is in that subcommittee or
21 not, and some of these issues that I know is
22 going to be discussed among our tribal

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1 caucuses, including NCAI, NAFOA, etc. I don't
2 know if you have any thoughts or insights on
3 that activity?

4 MR. RODMAN: I appreciate that,
5 Chairman Allen. I think what you've raised is a
6 good example of the cross-cutting nature of
7 these issues, maybe raised jurisdiction. At
8 first blush, one might think jurisdictional
9 issues fall in the Public Safety and Justice
10 Committee. But given the cross-cutting nature
11 of that issue, including for economic
12 development, tax issues, that's what the
13 council is there for, to make those
14 connections.

15 And so as, for instance, the Indian
16 Trader Act, if that is an issue that gets
17 pushed forward in the council and if it starts
18 in the Economic Development Committee, then
19 when it came to those jurisdictional questions,
20 we would be sure to bring in DOJ. DOJ is very
21 active in the White House Council on Native
22 American Affairs. There is an appointee in the

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1 Deputy Attorney General's Office who is in many
2 of these discussions. So I would say yes, DOJ
3 is active.

4 If you're asking for a specific
5 Native appointee in DOJ, that is a different
6 question. But the connections are there. If you
7 have an issue, you bring it to us, we will push
8 it forward.

9 CHAIRMAN ALLEN: Thank you. I don't
10 know if any of my colleagues or those on Zoom
11 have any questions for Morgan?

12 MR. RODMAN: Chairman, I see that
13 Will Micklin has his hand up, Vice President
14 Micklin.

15 CHAIRMAN ALLEN: Will?

16 MEMBER MICKLIN: Thank you. Thank
17 you, Mr. Rodman. Greetings to you, good to see
18 you. I am sure the White House Council is
19 wrestling with the current issues concerning
20 permits for environmental and rights of way
21 that our tribes have implications with
22 broadband or energy infrastructure or

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1 transportation. A lot of those projects have
2 access issues over federal public lands, which
3 predominantly are contiguous to or near tribal
4 lands.

5 That's illustrative of a number of
6 interagency issues. One anecdote I'll give you
7 is I recently participated in the EDA tribal
8 consultation on tech hubs and the distressed
9 area recompetete pilot program. The issue arose,
10 however, that in order to improve tribal
11 economies and attract partners to tribes in
12 tribal communities, there has to be some
13 consideration of dual taxation issues. EDA has
14 not really discussed those, nor is it within
15 their wheelhouse.

16 I think these and other matters are
17 important discussions, as Chairman Allen has
18 suggested, where there needs to be interagency
19 consideration and either an administrative
20 program or policy in order to address these
21 issues which are really at the heart of
22 developing tribal economies. It is persistently

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1 difficult to attract businesses and employers
2 to reservations, much less build tribes
3 themselves as enterprise employers.

4 If we don't deal with the issue of
5 dual taxation, we don't deal with the issue of
6 infrastructure deployment onto tribal lands
7 that can be across federal public lands or
8 local state jurisdiction lands. So I'm hoping
9 that this becomes or is a priority topic for
10 the White House Council, because individually
11 the departments and agencies that are our
12 federal partners individually, they're just not
13 capable of resolving these issues. It really
14 takes what is this White House Council
15 appropriately empaneled to address these
16 issues.

17 I am happy that they have you
18 expertise at their disposal, so it's not for a
19 lack of expertise. But we really need to get
20 these topics on the agenda because anywhere
21 from the CARES Act to the American Rescue Plan
22 Act to the CAA of 2021, the IIJA and the IRL,

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1 all those have deadlines for expenditure of
2 funds and we are fast approaching near-term
3 issues. Tribes are responding by, for instance,
4 developing tribal charter.

5 Tribal corporations chartered under
6 tribal law or Section 17 corporations, and we
7 need certainty as to the viability and the use
8 of those organizations and the ability to
9 monetize both the credits available under
10 legislation, as well as access to those funds.
11 So I think this is going to be a furious and
12 intense effort if we're going to meet, make
13 some decisions and provide some relief prior to
14 the deadlines imposed under federal law.

15 So thank you for taking on that
16 task. Sometimes it's a thankless job, but I
17 thank you. We've seen your efforts over the
18 years and we are confident that you can help us
19 carry these issues forward. (Native language
20 spoken.)

21 MR. RODMAN: Those are very kind
22 words, Vice President Micklin. The points that

1 you raised, especially dual taxation, I know
2 that Department of Treasury colleagues are
3 there, leadership is there, in addition to
4 Department of Commerce. That is a conversation
5 that's been had very actively. I've received
6 your comments, they've been noted. One
7 recommendation I would have, too, in the formal
8 mechanism of this Treasury Tribal Advisory
9 Committee, if there are recommendations to the
10 Council from this committee, I think that's
11 something to consider.

12 That helps our efforts on the White
13 House Council side track these are the
14 priorities that tribal leaders are saying to us
15 that we should be dealing with. Which I did
16 hear you loud and clear, Vice President
17 Micklin, on your points, so thank you for that.

18 CHAIRMAN ALLEN: Any other questions
19 for Morgan before he signs off? Is there
20 anybody else Josh? Any online? No.

21 MR. JACKSON: Not for Morgan, it
22 looks like.

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1 CHAIRMAN ALLEN: Okay, all right.
2 Well, Morgan, we want to thank you. We
3 appreciate--oh I'm sorry. We want to thank you
4 for your great work. We're well aware that the
5 Council and the six subcommittees really keep
6 you busy, a lot of issues on your plate and we
7 totally understand that. Thank you for your
8 advocacy for tribes and our sovereignty.

9 MR. RODMAN: Always a pleasure,
10 Chairman Allen. Thank you so much.

11 MR. JACKSON: Chairman Allen, we have
12 Rachel Levy with the IRS has also raised her
13 hand to speak to provide updates, as well.

14 MR. VALLABHANENI: Rachel, are you
15 there?

16 MS. LEVY: Hi, can you hear me?

17 MR. VALLABHANENI: Sure, go ahead.

18 MS. LEVY: You can? Okay, excellent.
19 I'm having some difficulty with my Zoom. I just
20 wanted to comment that I'm Rachel Leiser Levy.
21 I'm the Associate Chief Counsel with EEE, which
22 is one of the sister offices to IPNA, where you

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1 already heard from Lisa Mojiri-Azad, and EEE,
2 which is Employee Benefits, Employment Access
3 (audio interference) organization, also has
4 jurisdiction over several issues relating to
5 Indian tribes under the Code and including
6 tribal pensions.

7 So nothing, no particular updates to
8 provide from my office. I just did want to
9 express my thanks to all the TTAC members,
10 apologize that nobody from my front office
11 could be there in person today. But we do have
12 some members of our team sitting in the
13 audience and taking notes and listening as am I
14 and my deputy. So wanted to introduce
15 ourselves, let you know that we're here and
16 participating, and very much in listening mode.
17 And that's it.

18 MR. VALLABHANENI: Thank you. Before
19 moving to--well, let's just move to the next
20 order of business here. Pursuant to the bylaws
21 of the TTAC, the members wish to extend the,
22 well, to continue the prior subcommittees or

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1 existing subcommittees, which are the
2 Subcommittee on General Welfare Exclusion, the
3 Subcommittee on Dual Taxation, and the
4 Subcommittee on Tribal Pensions. Are there
5 other subcommittees that the members may want
6 to add to that list?

7 CHAIRMAN ALLEN: I don't think so.
8 Just those three committees, correct? I think
9 Stephanie was prepared to make a motion to
10 extend the committees' charge, is that correct?

11 MEMBER WILLIAMS: Sure, I'll make
12 that motion.

13 MR. VALLABHANENI: Okay, is there a
14 second for the motion?

15 VICE CHAIR EDENFIELD: I'll second.

16 MR. VALLABHANENI: Okay. I will go
17 down the roll call here. Just indicate aye or
18 yes or no or nay, however you please. Chairman
19 Allen.

20 CHAIRMAN ALLEN: Aye.

21 MR. VALLABHANENI: Vice Chair
22 Edenfield?

1 VICE CHAIR EDENFIELD: Aye.

2 MR. VALLABHANENI: Rebecca Benally?
3 I'm not sure she's on. Vice President Micklin?

4 MEMBER MICKLIN: Aye, thank you.

5 MR. VALLABHANENI: Thank you. Ms.
6 Williams?

7 MEMBER WILLIAMS: Aye.

8 MR. VALLABHANENI: Ms. Swift?

9 MEMBER SWIFT: Aye.

10 MR. VALLABHANENI: Thank you all. So
11 I guess the subcommittees are continued or
12 reinvigorated. The next order of business is to
13 request any of the members of the TTAC who
14 would wish to identify a technical adviser as
15 their technical adviser, or perhaps even for
16 the subcommittees an adviser if they would like
17 to make a motion.

18 CHAIRMAN ALLEN: I think I would like
19 to nominate Dale White and Telly ~~u~~ Meier to our
20 Dual Taxation and Tribal Pension subcommittees.

21 MEMBER SWIFT: I'll second that.

22 MR. VALLABHANENI: Now it's

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1 unfortunate for me that I don't get a vote,
2 because I might have to question Telly~~u~~ Meier
3 nomination. That's strictly a joke.

4 CHAIRMAN ALLEN: We did vet him, so
5 we think his character is of good standing.

6 MR. VALLABHANENI: I take your word
7 for it, and I have no doubt of his character or
8 his expertise, and wish him luck in supporting
9 the subcommittees' work. So with a first and
10 second motion, I'll go down the roll. Chairman
11 Allen?

12 CHAIRMAN ALLEN: Aye.

13 MR. VALLABHANENI: Vice Chair
14 Edenfield?

15 VICE CHAIR EDENFIELD: Aye.

16 MR. VALLABHANENI: Rebecca Benally?
17 Vice President Micklin?

18 MEMBER MICKLIN: Aye.

19 MR. VALLABHANENI: Ms. Williams?

20 MEMBER WILLIAMS: Aye.

21 MR. VALLABHANENI: Ms. Swift?

22 MEMBER SWIFT: Aye.

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1 MR. VALLABHANENI: Okay, thank you
2 very much. I'll ask Chairman Allen the
3 question, before moving to updates by the
4 subcommittees, any other business you'd like to
5 address?

6 CHAIRMAN ALLEN: The only thing, I
7 want to circle back, if I might, on the federal
8 updates with Richard on social security. Sharon
9 and I, who have engaged with Nancy and Renee
10 out of the social security office on that issue
11 of negative impacts by tribal programs that
12 serve our citizens that we end up reducing
13 their SSI social security payment. Which we
14 know they've been working hard at it and trying
15 to clear it up.

16 So we want to make sure that that
17 is, we're working hard at communicating the
18 opportunity where they can call so that that
19 does not cause those impacts. We know it's been
20 happening, and we're delighted that you've come
21 on board. We think you know a little bit about
22 Indian Country, so it's really good. And

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1 actually, in fairness, Nancy and Renee have
2 been doing a great job of working hard at
3 getting SSA on board. We don't know what else
4 needs to happen to avoid those unintended
5 negative consequences to our tribal citizens.

6 MR. LITSEY: Thank you, Chairman
7 Allen. Yes, they have been working on that and
8 they're bringing me up to speed on the issue. I
9 know that some of the things that have happened
10 in the past is it affects SSI recipients, and
11 we don't want that to happen. It looks like
12 we're working through our general counsel's
13 office to make sure that any sorts of benefits
14 that are given to tribal members, that it
15 doesn't impact their SSI.

16 CHAIRMAN ALLEN: Sharon?

17 VICE CHAIR EDENFIELD: Thank you, Mr.
18 Litsey. I actually met you on Teams, but I was
19 the sunset screen, not my face, so it's nice to
20 meet you in person. Yeah, this has been a big
21 issue for our tribe, as you're well aware
22 because I think I mentioned it when we did

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1 meet. Now I'm starting to get calls because
2 SNAP programs are reducing benefits. So our
3 tribal citizens that are getting SSI benefits
4 are really feeling it now because their SNAP
5 benefits are being reduced.

6 I just want to point out social
7 security is not the only one. That's just kind
8 of where the committee started was with social
9 security. But this is with all of our federal
10 partners. Anybody that uses income based on
11 what their needs are for benefits through those
12 federal programs, they all need to be exempt.
13 But we just picked social security because
14 that's who we heard the most from with our
15 tribes. So I thank you for working with us. I
16 know Nancy and Renee have been wonderful to
17 work with.

18 I look forward to this finally
19 coming to a resolve. I was hoping it was going
20 to be done by the time my term is up with TTAC.
21 But anyway, I'm happy to meet with you, and you
22 will see and hear a lot from our subcommittee.

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1 But thank you.

2 MR. LITSEY: Thank you, and I look
3 forward to that.

4 CHAIRMAN ALLEN: Are there any other
5 issues that want to be raised before we move
6 into the subcommittee updates, correct?

7 MR. VALLABHANENI: Yes, sir.

8 CHAIRMAN ALLEN: Did we have anything
9 that we had to--technical advisers? Was that
10 supposed to be approved? That's taken care of,
11 correct, Stephanie?

12 MEMBER WILLIAMS: Yes, it was just
13 the subcommittee members.

14 CHAIRMAN ALLEN: Okay. All right, any
15 issues by Will or Jean that you want to raise
16 before we go into the subcommittee updates?

17 MEMBER SWIFT: I'm all set, thank
18 you.

19 CHAIRMAN ALLEN: Okay, Will?

20 MEMBER MICKLIN: Chairman, can you
21 hear me?

22 CHAIRMAN ALLEN: Okay. Well, I just

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1 want to say--did you have something more, Will?

2 MEMBER MICKLIN: I just wanted to
3 underline the prior discussion on the topic of
4 tax administration and the benefit we receive
5 from ITG, and our discussion of yesterday that
6 the improvements to tax administration, the
7 interface between the taxpayer and, in this
8 instance, tribal taxpayers, tribal citizens and
9 tribal governments with the process through
10 notices and the difficulty in regular context
11 in resolving issues, and the experience and
12 education and training of that regular process
13 without the intervention of ITG is really in
14 need of attention.

15 We appreciate all that ITG does. I
16 think to resolve this we'd have to stress ITG
17 beyond their capacity. So it, I think, is
18 important that we renew our engagement on the
19 issue of tax administration, the ability for
20 the frontline workers and supervisors to engage
21 with both tribal citizens and tribal
22 governments on issues that have resulted in

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1 notices, and what recourse there is for
2 intervention when that engagement is not
3 sufficient to resolve issues. I know there is a
4 plan and a process underway to improve that
5 customer service engagement, but it is an issue
6 for tribes. Thank you.

7 CHAIRMAN ALLEN: Thank you, Will. I
8 don't think I have anybody else that wants to
9 make any comments. So I'm thinking, Krishna,
10 that we should just go into the updates on the
11 subcommittees.

12 MR. VALLABHANENI: Sounds good to me,
13 sir.

14 CHAIRMAN ALLEN: All right, well, let
15 me kick it off with the General Welfare and
16 then I'll ask Sharon to chime in. We had some
17 just informal tribal updates, just to talk
18 about where we are and hopeful that we can move
19 forward as we mentioned to Lisa, that we would
20 like to be able to schedule a work session to
21 go over the comments that were provided. We
22 would count on Lisa and Fatima to help us

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1 orchestrate a scheduled time.

2 It may take a couple of sessions.
3 Going through 60 or so comments that will take
4 us a little while to work our way through it,
5 our views, our observations about it. So at
6 least we could try to set one up and see how
7 far we can get down that list and talk through
8 it. Then I know that, Lisa, you had mentioned a
9 couple times now that there's some questions
10 you have about how we read our recommendations
11 to what goes into the guidance, the regulations
12 that is. So we're looking forward to that.
13 We've talked our way through it, and so I think
14 we're geared up for that conversation.

15 Outside of that, I don't have any
16 other updates. I can't remember in our last
17 conversation, Sharon, if there's anything I'm
18 missing in terms of our discussion. We're just
19 anxious to move it, to move forward because
20 we're getting pressure from our colleagues.
21 Sharon?

22 VICE CHAIR EDENFIELD: Yeah, we just

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1 didn't know what the next step was going to be
2 because our hope was it was going to come back
3 to our subcommittee to be able to see what was
4 being questioned or not understood. So that was
5 very refreshing, I have to tell you, for that
6 consultation. So we look forward to this work
7 group in our subcommittee, so thank you.

8 CHAIRMAN ALLEN: I would leave it at
9 that as far as our update. We will circle back
10 to you and Fatima and set up some dates so that
11 we can begin that conversation. Outside of
12 that, I don't think I have anything more. Any
13 questions from the committee? Stephanie, Will
14 or Jean? Okay, I hear none.

15 MEMBER MICKLIN: Chairman?

16 CHAIRMAN ALLEN: Yep, Will?

17 MEMBER MICKLIN: So just a question
18 of in the past we've discussed issues on audits
19 and oversight. I think that's a sub-component
20 of the question I just raised on tax
21 administration and the outward-facing
22 engagement with the tribes and tribal citizens.

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1 There are components of that both in General
2 Welfare and in Pensions. Is it safe to say, Mr.
3 Chair, that we're addressing those questions as
4 a general matter on tax administration?

5 CHAIRMAN ALLEN: Lisa?

6 MS. MOJIRI-AZAD: May I suggest at
7 least, as you know, there's an audit suspension
8 currently under GWE for tribal members. So
9 that's an issue that we can certainly have some
10 dialogue on with our IRS colleagues there. I
11 think Rachel would probably want to address,
12 Rachel Levy, some of your concerns with the
13 plan audit, the pension plan issues. But I
14 think for the Indian general welfare issues we
15 first need to have guidance and some training
16 before any of the examination and the audits
17 could move forward. So hopefully that's
18 helpful.

19 CHAIRMAN ALLEN: Do you or Rachel
20 have ideas about how we would go about the
21 training when we get to that point? Have we had
22 any conversations?

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1 Carman?

2 MS. ZUCKER: I think at this time, I
3 second what Lisa has said, which is that we'd
4 like to see a coming of, a meeting of the minds
5 on the regulations. And then once the
6 regulations are in place, we can have a
7 discussion with Treasury about the training to
8 our specialists.

9 CHAIRMAN ALLEN: And a schedule, I'm
10 assuming. I'm participating in some sort of
11 training. It must be orientation for new
12 agents. Is that what it is? Later this month, I
13 think. So typically they called on me to talk
14 about Indian Country 101, I guess, put it that
15 way. But I sort of wonder when they do do that,
16 that do they have any kind of refresher
17 processes or orientation--not orientation, but
18 you know what I mean?

19 You hear about it once in an
20 orientation and maybe it's a half an hour or an
21 hour, something like that, but then quickly you
22 forget. It's a retention question about who we

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1 are when those agents show up on our
2 reservations, or if they're auditing our
3 people, which is an issue for many of us.

4 MS. ZUCKER: So Chairman Allen, I
5 think I had mentioned in my comments that
6 whenever we have new hires to ITG, we provide a
7 week-plus long training on protocols and
8 dealing with federal Indian law and some of the
9 basic principles. Often we'll ask our
10 Treasurer, yourself, Indian tribal leaders to
11 come in and speak about customs, culture,
12 government-to-government relationships. We're
13 also going to be having an ITG-wide CPE this
14 year, and so at that point we too will have a
15 session, a refresher on working with tribal
16 governments.

17 CHAIRMAN ALLEN: Good. That's good to
18 hear. Lisa, were you going to add anything to
19 that?

20 MS. MOJIRI-AZAD: Yes, if I may also.
21 Generally once we issue guidance, we tend to go
22 in and modify what's called the Internal

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1 Revenue Manual, which is really the guidebook
2 for our agents and our revenue agents. So I
3 would expect at some point we will be visiting
4 the IRM provisions of tribal issues, as well as
5 general welfare issues for Indian tribes.

6 CHAIRMAN ALLEN: Okay.

7 MS. MOJIRI-AZAD: So that's something
8 that I think would be in the near future.

9 CHAIRMAN ALLEN: Okay. Yeah, Sharon?

10 VICE CHAIR EDENFIELD: So the
11 internal guidance, is that available for people
12 outside the agency? I only ask that question
13 because I had attended a training when GW was
14 first on, and the trainer was telling us that
15 the cultural aspect of GWE, that the only thing
16 that could be exempt was shamans, and we all
17 said no. So I had to reach out to Christie
18 Jacobs and tell her, you need to be talking to
19 the staff and whoever that's doing this
20 training, that that's not the case.

21 So after the training, they got
22 clarification, because I asked them where are

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1 you getting this from? It sounded to me like it
2 was an internal manual or guidance or
3 something. So I was just wondering if that's
4 available. So that way tribes would know what's
5 in it that they're looking at.

6 MS. MOJIRI-AZAD: Yes, and actually
7 something we're doing as part of our working
8 group is we're working with our ITG colleagues
9 to identify those types of provisions to see
10 what needs to be corrected, what needs to be
11 updated, what needs to be clarified. The
12 Internal Revenue Manual is available online.
13 It's public information. But again, I suspect
14 it doesn't have a lot of information right now
15 on Section 139D. It really shouldn't because
16 there's no active audit activity. So it's
17 something we're looking at and updating, I
18 hope.

19 CHAIRMAN ALLEN: That's great. Sharon
20 is absolutely right. It's not just shamans.
21 Shaman is a religious practice that we often,
22 well, we regularly compensate. But there are

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1 other kinds of religious practices in my area,
2 shakers. But there's other traditional cultural
3 practices that we often compensate those who
4 are knowledgeable and they teach the younger,
5 not just younger generation, teach a lot of our
6 people who don't know how to do certain things
7 that are traditional cultural activities.

8 I think that's what Sharon is
9 getting at, is it's a lot more complicated.
10 We're trying to--this is why we want to defer
11 to the tribes because we couldn't, when we
12 talked about it as a committee in our advisory,
13 we couldn't just list them. If you list them,
14 you're going to miss something that's unique to
15 the Iroquois Confederacy Tribes or to Great
16 Plains or to us up in the Northwest, et cetera.
17 If you go to Alaska, Inupiats, on down the
18 line.

19 So I'm think I'm getting the point
20 is it's unique and it has to be driven by our
21 people. Now we would expect that our safe
22 harbor codes would identify the kinds of

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1 activities that we think are appropriate for
2 compensation for the service that they provide
3 to the community or the people.

4 MS. MOJIRI-AZAD: The term safe
5 harbor seems to have given folks a lot of, I
6 think, challenge. Both in the comments, we'd
7 asked about safe harbors, and as you know,
8 there's safe harbors currently in the revenue
9 procedure. So in terms of safe harbors, if I
10 may suggest we hold off on those discussions,
11 because one challenge that I think both the IRS
12 has, as well as tribes, is the earlier revenue
13 procedure didn't really set out specific rules,
14 and yet it just went into safe harbors.

15 And something that the comments
16 indicated to us is the safe harbors appear to
17 confine them by saying this is all you can do.
18 Whereas, I don't think that's what was
19 intended.

20 CHAIRMAN ALLEN: No, that's correct.

21 MS. MOJIRI-AZAD: So to your point
22 about safe harbors, you're absolutely correct,

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1 and some of it might just be semantics. Maybe
2 we don't--maybe the word safe harbor isn't the
3 proper word, but maybe special rules or
4 additional rules. But again, those are the
5 types of details that we would really benefit
6 talking to your subcommittee about. And you may
7 recall in the TTAC draft, there was, I think,
8 two sentences having to do with the interaction
9 of Section 139D, having to do with Indian
10 health benefits and the interaction with
11 general welfare benefits.

12 So again, those are the types of
13 details that we would really benefit in talking
14 with your subcommittee and learning more about
15 them. That has come out in the comments is that
16 we need to learn more.

17 CHAIRMAN ALLEN: I would agree. It's
18 kind of easy to jump, use that safe harbor. It
19 is a phrase we have picked up and translated
20 into the codes. And for us it will just be
21 codes. We're all establishing codes and we are
22 urging every tribe to have some set of codes

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1 that outline the various benefits that we
2 provide to our citizens. And they are, they
3 will vary from traditional kind of stuff to
4 just domestic assistance kind of programs and
5 on down the line.

6 Okay, fair enough. Any comments or
7 questions here before we move on? So we have a
8 lot to discuss, there's no question about it.
9 So we're looking forward to that.

10 MEMBER MICKLIN: Mr. Chair?

11 CHAIRMAN ALLEN: Yep, Will?

12 MEMBER MICKLIN: I appreciate those
13 comments. Thank you. Those are insightful. Just
14 a question. There is the moratorium on general
15 welfare exclusion audits, but as well, since
16 this is--the whole question is broad, is there
17 as well an effective moratorium on other audits
18 that are not specific to tax deficiencies in
19 particular, but generally could implicate GWE
20 or other issues? I'm just wondering about the
21 effect of the moratorium on all audits that are
22 not directed to a specific tax deficiency or

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1 filing deficiency.

2 CHAIRMAN ALLEN: Any comments?
3 Carman?

4 MS. ZUCKER: Perhaps I'm not
5 understanding the question that well, but when
6 it comes to GWE, there is a moratorium. So we
7 will not examine, even tangentially, something
8 that has to do with GWE.

9 CHAIRMAN ALLEN: Okay.

10 MS. ZUCKER: I hope that answers the
11 question, Will, Mr. Micklin.

12 MEMBER MICKLIN: Sorry, I believe the
13 concern is in ATNI and NCAI recent resolutions
14 that are asserting that there's a broader
15 implication to audits resulting from the GWE
16 moratorium that is--sorry, I'm trying to read
17 the actual therefore be it resolved--the
18 oversight in audit exam and tax collection
19 activities that are at issue and calling for an
20 audit oversight subcommittee to provide a
21 standing mechanism to ensure that the policy is
22 consistently executed.

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1 So it's an issue and I think we can,
2 Mr. Chair, follow up on it between now and the
3 next meeting to address the questions on audit
4 and define the concerns and the response in a
5 coherent fashion other than just a quick back
6 and forth right now. So if we can keep that as
7 a placeholder for our next meeting, we'll have
8 a more deliberative session on this topic.
9 Thank you.

10 CHAIRMAN ALLEN: Yeah, thanks Will.
11 You have us at a disadvantage. I can tell
12 you're reading another screen at the same time
13 you're talking to us. So yes, we'll put a
14 place-marker on it, and that's one of the
15 advantages if we have to do it by Zoom. We'll
16 be able to share on the screen the subject,
17 references to either the law or existing
18 guidances, if you will.

19 So okay, we have plenty to discuss
20 and we'll set it up so we can talk through the
21 draft regs, the comments, and these additional
22 points like Will's raising. All right, so let's

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1 move on if it makes sense, Krishna. Dual
2 taxation, and so dual taxation. Jean, are you
3 going to--who's going to lead this? Stephanie
4 or Jean?

5 MEMBER SWIFT: That's correct.

6 CHAIRMAN ALLEN: I forgot who's on
7 this committee? Jean or?

8 MEMBER SWIFT: Then Rebecca Benally.

9 CHAIRMAN ALLEN: Oh, Rebecca, all
10 right. Go ahead, Jean, I'm sorry.

11 MEMBER SWIFT: Very good, thank you,
12 Chairman. So yes, myself and Rebecca Benally
13 co-chair the Dual Taxation subcommittee. As I
14 mentioned earlier when the Deputy Secretary was
15 here, a report was submitted back in December
16 of 2019, and we had a re-consultation on
17 February 28th. We feel that was well-attended.
18 We did receive some new comments from tribal
19 leaders.

20 The comment period is open until the
21 end of March, and at that point we're working
22 with Treasury to make sure that we can get kind

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1 of a compilation of all the comments that were
2 received. The plan essentially will be to
3 create basically just an addendum to the report
4 that can be attached to the existing report
5 just to refresh the issues and to bring forth
6 any new concerns or recommendations that we
7 receive from comments. We also want to make a
8 distinction between legislative and
9 administrative fixes that are being
10 recommended, as well. That's all I have at this
11 time.

12 CHAIRMAN ALLEN: Okay, any questions
13 for Jean? I do know, just an observation from
14 my end, Jean, I know that the idea of using the
15 base report on dual taxation parity is a solid
16 document. The additional work that you guys are
17 engaged on supplementing it with regard to next
18 steps and what we can do to solidify our
19 jurisdiction and authority when it comes to
20 this topic, that's what I was raising with
21 Morgan, that without a doubt and what some of
22 the other departments can do, Justice and

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1 Department of the Interior, as well, to assist
2 us in this endeavor.

3 So look forward to the additional
4 work that you guys are going to work on. Any
5 other comments? If not, then we'll move to the
6 pensions. Stephanie, are you or Will going to
7 lead off?

8 MEMBER WILLIAMS: Co-Chair Will
9 Micklin will provide a report.

10 CHAIRMAN ALLEN: Okay, Will, go
11 ahead.

12 MEMBER MICKLIN: Thank you, Mr.
13 Chair. The Tribal Pensions Subcommittee
14 reviewed the project plan and report of the
15 Tribal Pensions Subcommittee previously
16 drafted. We updated it for current events and
17 in part legislation that has occurred in the
18 interim period. We reviewed the legislative
19 process whereby the Congress has and is now
20 contemplating remedies that we have proposed in
21 the report that are supported by the various
22 inter-tribal organizations and tribes in Indian

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1 Country.

2 So as the result of that effort, we
3 have today will be putting forward, or Co-Chair
4 Stephanie Williams will be putting forward a
5 motion with three parts, or three motions,
6 however it's considered, that will be looking
7 to adopt the report, put it out to publication
8 and consultation, and then to look for an
9 administrative moratorium on the enforcement
10 under the pending guidance, and also to engage
11 with the Department of Labor in our
12 recommendations since the jurisdiction is under
13 Department of Labor.

14 It was a productive effort, a great
15 team on Tribal Pensions that has contributed.
16 Each of them contributed significantly and I
17 thank Co-Chair Stephanie Williams for her
18 leadership in this effort. I think once we take
19 our actions today, we will move forward with
20 the next phase in this topic. Thank you, Mr.
21 Chair.

22 CHAIRMAN ALLEN: Stephanie?

1 MEMBER WILLIAMS: Mr. Chairman, I do
2 have three motions that I'd like to present to
3 the committee.

4 CHAIRMAN ALLEN: Okay.

5 MEMBER WILLIAMS: The first one being
6 the TTAC Subcommittee on Tribal Pension hereby
7 motions for the full Treasury Tribal Advisory
8 Committee to 1) to adopt the draft Tribal
9 Pension Subcommittee Report and request
10 publication on the Treasury website with
11 solicitation of tribal input.

12 CHAIRMAN ALLEN: Okay.

13 MR. VALLABHANENI: Is there a second
14 to the motion?

15 MEMBER MICKLIN: I second.

16 MR. VALLABHANENI: All right, thank
17 you.

18 MEMBER WILLIAMS: Thank you, Will.

19 MR. VALLABHANENI: I'll go down the
20 roll. Chairman Allen?

21 CHAIRMAN ALLEN: Aye.

22 MR. VALLABHANENI: Vice Chair

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1 Edenfield?

2 VICE CHAIR EDENFIELD: Aye.

3 MR. VALLABHANENI: Rebecca Benally?
4 Vice President Micklin?

5 MEMBER MICKLIN: Aye.

6 MR. VALLABHANENI: Thank you. Ms.
7 Williams?

8 MR. JACKSON: Turn your mic on,
9 please?

10 MEMBER WILLIAMS: Aye.

11 MR. VALLABHANENI: Ms. Swift?

12 MEMBER SWIFT: Aye.

13 MR. VALLABHANENI: Thank you. All
14 right. Motion is adopted. Second motion?

15 MEMBER WILLIAMS: Thank you,
16 Committee. The second motion that we bring
17 forward is to support negotiation of an
18 administrative moratorium against enforcement
19 of non-governmental rules against tribal plans
20 pending guidance under the Pension Protection
21 Act of 2006 and legislative efforts for equal
22 government status, including the elimination of

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1 the essential government functions and
2 commercial activity tests.

3 CHAIRMAN ALLEN: I'll second it.

4 MR. VALLABHANENI: Okay, sir. All
5 right, Chairman Allen?

6 CHAIRMAN ALLEN: Aye.

7 MR. VALLABHANENI: Vice Chair
8 Edenfield?

9 VICE CHAIR EDENFIELD: Aye.

10 MEMBER MICKLIN: Is the microphone
11 on? I can't hear.

12 MR. VALLABHANENI: Mine? Oh sorry.
13 Vice Chair Edenfield? Oh.

14 VICE CHAIR EDENFIELD: Aye.

15 MR. VALLABHANENI: Vice President
16 Micklin? Oh it looks like he's--there he is.
17 Mr. Micklin?

18 CHAIRMAN ALLEN: Will, are you on
19 mute?

20 MR. VALLABHANENI: No, I think his
21 signal--

22 CHAIRMAN ALLEN: He is?

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1 MR. VALLABHANENI: It looks like--

2 CHAIRMAN ALLEN: Thumbs up works.

3 MR. VALLABHANENI: Yeah.

4 CHAIRMAN ALLEN: Oh thumbs up. Josh
5 said he gave a thumbs up.

6 MR. VALLABHANENI: Okay, thank you.
7 Ms. Williams?

8 MEMBER WILLIAMS: Aye.

9 MR. VALLABHANENI: Ms. Swift?

10 MEMBER SWIFT: Aye.

11 MR. VALLABHANENI: All right, the
12 motion is adopted. And the third motion?

13 MEMBER WILLIAMS: Thank you,
14 Committee. The third motion is to request
15 Treasury to coordinate the administrative
16 moratorium with Labor to ensure consistency and
17 meaningful consultation.

18 CHAIRMAN ALLEN: I'll second that
19 motion, as well.

20 MR. VALLABHANENI: Okay, thank you.
21 Chairman Allen?

22 CHAIRMAN ALLEN: Aye.

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1 MR. VALLABHANENI: Vice Chair
2 Edenfield?

3 VICE CHAIR EDENFIELD: Aye.

4 MR. VALLABHANENI: Vice President
5 Micklin?

6 MEMBER MICKLIN: Aye.

7 MR. VALLABHANENI: Thank you. Ms.
8 Williams?

9 MEMBER WILLIAMS: Aye.

10 MR. VALLABHANENI: Ms. Swift?

11 MEMBER SWIFT: Aye.

12 MR. VALLABHANENI: Thank you. The
13 third motion is adopted.

14 MEMBER WILLIAMS: Thank you.

15 CHAIRMAN ALLEN: Okay, that pretty
16 well wraps up the pension update?

17 MEMBER WILLIAMS: Yes, thank you.

18 CHAIRMAN ALLEN: You guys have been
19 busy. Well, Krishna, I guess I'll turn it back
20 over to you.

21 MR. VALLABHANENI: Sure.

22 CHAIRMAN ALLEN: I think we go into

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1 public comments?

2 MR. VALLABHANENI: Yes. I'm going to--
3 -I'm not aware of any individual previously
4 indicating that they would want to present
5 comments. If that's wrong, I'll turn it over
6 to--

7 MS. ABBAS: That's right, so we're
8 going to first go to those in the room, and if
9 anybody does want to make public comments I
10 think this is the microphone up there, so we
11 can get it for the folks on Zoom. So tribal
12 leaders and then tribal representatives in the
13 room, and then we'll go to the virtual
14 attendees.

15 CHAIRMAN ALLEN: And we need them to
16 introduce themselves, correct?

17 MS. ABBAS: Yes, and introduce
18 yourself for our record. Councilman Cagey?

19 MR. CAGEY: Henry Cagey with Lummi
20 Nation. I think I'm on the subcommittee for
21 dual taxation. Mr. Chairman, one of the things
22 that we wanted to bring your attention to is we

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1 waited a long time for this Treasury thing to
2 happen. I think we're into Year 4, Year 5 now.
3 Mr. Krishna, we'd like to see a plan, a short-
4 term, long-term plan here and what's going to
5 happen these next two or three generations for
6 our people and our businesses.

7 There's very little attention to the
8 businesses that are on the reservations. You've
9 got the tribal corporations I think you're
10 going to address, but it's the rest of the
11 businesses you guys got to think about. We've
12 got (audio interference) folks here from a fuel
13 distributor here that are looking for some
14 clarification on what's going on with our fuel
15 sales. There's a lot of things that I think you
16 guys got to think about for the small business
17 to grow.

18 Our economies have not changed a
19 whole lot since we started. We created this
20 General Welfare Exclusion to get in the door,
21 and we're in the door now. We want to see some
22 better policies designed to build our economy.

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1 What does that look like? One of the things we
2 want to see is what are the barriers? There was
3 an ICE bill that was passed--what's that number
4 again, Rob? We have a bill that was passed two
5 years ago, 116-261.

6 That was a bill that was passed by
7 the Senate and the House. Within that bill
8 there are some barriers that the administration
9 was supposed to carry out to look at the
10 barriers and what we have in economic policy.
11 Today we haven't seen anything from that. We'd
12 like to see some clarification, at least on
13 what Congress is asking on that bill. Is
14 Treasury going to take the lead on it, or is it
15 going to be the Bureau? Is it going to be
16 Commerce?

17 Somebody has to take a lead on
18 getting those barriers identified for economic
19 prosperity. This whole thing is designed--we
20 want the ability, as you said earlier in your
21 comments, is to recognize our sovereignty.
22 Without that, we're still at the mercy of these

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1 dual taxation issues. Give us a chance to
2 really look at keeping our own taxes. I've been
3 doing taxes a long time. You look at the money
4 we're paying back United States, we're probably
5 paying back in more than we're getting.

6 As you mentioned earlier, this \$300
7 billion is probably a drop in the bucket to
8 what we paid back. So we really want the
9 ability to keep our own taxes. We want the
10 ability to grow, and we want the United States
11 to support the things that we need to do on the
12 reservation. Ron mentioned the Trader Status
13 Act. We brought that forward three or four
14 years ago now, and we want some ability to get
15 that Trader Status on its feet because again,
16 we're seeing that the intrusion of the states
17 continue to reach in and take what they think
18 is theirs.

19 So we need some help with that. I
20 think as Treasury you should be joining us, but
21 it's also the other agencies. The Bureau, where
22 is the Bureau with you guys? How come the

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1 Bureau's not here? They play a big role on this
2 issue, on our lands. They should be at the
3 table here giving you guys reports on why we
4 can't have economic growth. Where is that?
5 Where is Commerce? Why aren't they at the table
6 with you folks?

7 You've got a lot of agencies that
8 tie to what you're doing. I recommend the
9 Committee really look hard on what you're
10 doing. You've got social security, but that's
11 as far as I've seen you go. If you're going to
12 grow our economy, you've got to bring all the
13 people in to help make that happen. I'm glad
14 the White House was here to really look at the
15 issues they're doing. But access to capital,
16 we've been talking about that 40 years.

17 I don't know what's different this
18 time. Access to capital is not what we want to
19 see, it's access for our businesses to grow.
20 The tribes have no problem getting capital.
21 It's the small businesses that need help. So
22 really think about how you guys want to work

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1 with that issue, but we've got no problem going
2 to borrowing money from the bank. It's the
3 small businesses that need help, but their
4 hands are tied because of their land.

5 Their hands are tied because they're
6 forced to do things without getting the
7 capital. They have land, but they can't even
8 use it. These kind of things that we need to
9 look at in helping our people. So again, Mr.
10 Chairman, we brought up the issue of the Audit
11 Committee back in--where am I at here--I think
12 back in January when we had ATNI, we brought up
13 the issue of an Audit Committee. I believe you
14 supported it, but may have forgotten it.

15 We passed a resolution through NCI
16 for the Audit Committee. I'm not sure why you
17 folks aren't getting those, because we work
18 very hard in getting those resolutions through
19 the system. I don't know whether there needs to
20 be a better connection with NCI and our
21 organizations that pay attention to this issue.
22 I'd recommend you find a better way to connect

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1 our ways to communicate with you. Again, we try
2 to follow the process with you guys on asking
3 what the tribes want to see. But these last two
4 meetings we've had it's the Audit Committee.

5 Again, we've asked that Audit
6 Committee, we don't trust the IRS on these
7 audits. If you guys remember, there was over
8 2,000 audits done before General Welfare passed
9 on everything. They're auditing our housing
10 benefits, our health benefits, our scholar
11 benefits, everything was being audited by the
12 IRS. So we went through a real bad period with
13 you folks, and we want a better way to do it.
14 So again, this committee will help guide that
15 as we see it.

16 These guys are real busy on what
17 they need, but you guys need some good
18 guidance. You can't just do it on a weeklong
19 treatment or weeklong training. It don't work
20 that way. It's an ongoing issue to work with
21 Indian Country. So we want to make sure you
22 folks really have a good grounding of what that

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1 means. There's different cultural
2 interpretations from across the board, from
3 coast to coast. You're going to know that
4 Indian Country is not one size fits all.

5 Once you folks understand that it's
6 different from Alaska to Florida. Alaska has
7 their own issues, as you've heard from Mr.
8 Micklin. You guys need to think about dealing
9 with Alaska, a way to deal with it, because
10 they're a lot different folks to work with
11 because they don't have a land base. But it
12 shouldn't hold us up for everything we need to
13 do. So again, we ask that you guys really
14 consider moving forward, but in a good way.

15 We want the economic policies
16 strong. We want it for our kids and our
17 grandkids when they're coming. Right now things
18 haven't changed since I've been on this council
19 30 years now. I'm just keeping up with Ron over
20 there, but it's something we need to do. This
21 economic policy is here and we want Treasury to
22 really take a good role on how you're going to

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1 grow our economy, and what does that look like.

2 I've seen your thick book that's
3 about a foot thick that talks about the United
4 States economic policies, and we're not in it.
5 That book that sits on your desk. We want to be
6 mentioned in that, in your report. So again,
7 we're not. We want you to see us. I think
8 you're finally beginning to see us, Mr.
9 Krishna, but you need to see the whole thing.
10 So again, we want to make sure that you guys
11 see us very clear.

12 We're here to stay. We want to make
13 sure that we're doing the right thing, our
14 committee is doing the right thing. But there's
15 a lot of things I think you can do better on
16 this committee. Bring the stakeholders in that
17 could make a big difference with you guys.
18 You're not in it by yourselves. You've got the
19 whole family of government to deal with, so
20 bring them in. Bring in these folks that can
21 help us.

22 Again, I'd urge the committee how

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1 you look at your meetings and how your meetings
2 are managed. We kind of really messed up when
3 we put FACA in this thing. We should've left it
4 out when we wrote the bill. But again, we want
5 to make sure that you guys are able to
6 communicate with us. Right now the only thing
7 we're communicating with is with Lynn and
8 Fatima, so the tribal leaders that are on this
9 committee.

10 You've got to think about how you're
11 going to work with the rest of us out here, and
12 how does that work and what does that look
13 like? So we'd like you on these consultations
14 when these things are happening, I didn't hear
15 any committee members on this consultation when
16 you guys were doing it. I'd recommend the
17 committee participate in these consultations
18 that are happening and you're there listening.
19 They're the ones taking the notes. You guys are
20 taking the action.

21 Again, I just want to say thank you.
22 I look forward to working with you folks. Did I

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1 miss anything? I don't think so. But again, I
2 really would urge this work you did, Ron, on
3 the Trader Status. Don't let that go, because
4 we think that's very important to update those
5 regs.

6 CHAIRMAN ALLEN: Lynn?

7 CHIEF MALERBA: Councilman Cagey,
8 thank you very much for your comments and I
9 appreciate that. I did want to make note of the
10 fact that Shaun Deschene from Commerce is here
11 today and in the room. So we will add her to
12 the agenda for the next time so that she can
13 provide an update. Bureau of Indian Affairs was
14 unable to participate today, but we do think
15 it's really important that all of the things
16 that we're addressing is addressed as a whole
17 of government because we need to cut down those
18 barriers interagency and to work through a lot
19 of those issues.

20 That is why Fatima is on the WHCNAA
21 subcommittees, as well as I am sitting in for
22 Secretary Yellen on WHCNAA, as well. But I do

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1 appreciate the issues that you are bringing up,
2 because it is not just these three issues,
3 general welfare and the pensions and dual
4 taxation. There are a lot of issues that need
5 to be addressed so that we have tax parity and
6 that we're able to grow our economies in our
7 tribal governments.

8 So I appreciate your comments. We
9 have a lot of work to do, but we are going to
10 continue to make progress as we go forward. In
11 terms of FACA, that has been something that has
12 been discussed on the committee because we
13 don't believe that this committee should be
14 FACA-compliant because it is a tribal advisory
15 committee. There are some steps to take to
16 perhaps address that, but know that that is
17 something that we are looking at.

18 I will share with you, too, that I
19 did meet with another tribal nation that I did
20 meet with another tribal nation that said they
21 don't provide any public comments at this
22 meeting because it is not FACA-exempt. So you

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1 are not alone in that feeling.

2 MR. CAGEY: Thank you.

3 CHAIRMAN ALLEN: Thank you, Madame
4 Treasurer. I have to get used to being more
5 respectful of standing. We worked together as
6 colleagues too many years, and I have a
7 propensity to be more informal. So Henry would
8 be helpful, so we need to take up the
9 consideration of an audit subcommittee. If you
10 or others have ideas about the charge of the
11 audit committee, we need to collaborate with
12 Carman and the IRS on the role of a committee
13 if one is established. Does that make sense,
14 Krishna?

15 So you might help us on that, so we
16 take that under consideration when we gather
17 together in June. We need to know the basis for
18 it and what they would do in interfacing with
19 primarily the IRS. Fair enough?

20 MR. CAGEY: Mm-hmm, we can do that.

21 CHAIRMAN ALLEN: Okay, all right.
22 Appreciate that, thank you.

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1 CHIEF MALERBA: Just one other thing
2 and I did--when you talked about the
3 consultations, I did want to make reference to
4 Jean Swift and Rebecca Benally, who were on the
5 dual taxation consultation with us. So they
6 actually opened up the consultation with some
7 comments.

8 MR. CAGEY: Thank you.

9 MS. ABBAS: If there are any other
10 tribal leaders or tribal representatives that
11 would like to make comments in person? Looks
12 like we don't have any tribal leaders, so
13 Michael Willis and then Rob.

14 MR. WILLIS: Good afternoon,
15 Treasurer Malerba, as well as members of the
16 committee. My name is Michael Willis. I am an
17 attorney with Hobbs, Straus, Dean & Walker, and
18 I am here on behalf of the Kickapoo
19 Traditional Tribe of Texas. The Kickapoo Tribe
20 would like to send its thanks to the GWE
21 subcommittee for the regulatory effort that
22 they put forward.

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1 They want to alert you to a
2 particular situation that you all have looked
3 into and have examined and taken comments on.
4 That regards the relationship between General
5 Welfare Program payments and per capita gaming
6 comments under the IGRA. Obviously, we all know
7 here at the TTAC that the IRS has made some
8 clear statements in its revenue procedure that
9 gaming revenue is eligible funding source for
10 general welfare payments that are tax-excluded
11 provided that the program is consistent with
12 the criteria set out in the revenue procedure.

13 Congress has also said the same with
14 respect to the Tribal General Welfare Exclusion
15 Act. The Kickapoo Tribe has a safe harbor
16 program. It's a housing program that's
17 essential for the Kickapoo Tribe, as they have
18 traditional nomadic relationships where they
19 cross the border into Mexico and have their
20 ceremonial homes in Mexico that are used
21 exclusively for ceremonial and cultural
22 purposes. They live in Texas in permanent

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1 residence on their reservation.

2 The housing program supports the
3 maintenance of those reservation homes so that
4 the families can keep their ceremonial homes
5 going at the same time. For three years running
6 now, the NIGC has been alleging that the
7 program that the tribe has developed for
8 housing support is somehow a per capital
9 distribution carried out in violation of the
10 IGRA.

11 This process has gone on for three
12 years, and I think in the comments that
13 Kickapoo submitted to the Treasury Department
14 on the regulations, I think it was Question 8
15 regarding IGRA, urging clarification and urging
16 that the IRS and Treasury play a very active
17 role, not only in training your own officials
18 and agents in the general welfare process, but
19 being sure that other federal agencies are
20 aware of their responsibilities and their
21 obligations.

22 I think particularly the NIGC has

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1 seemed to come up with a position that even if,
2 even if a program is a qualified General
3 Welfare Exclusion Program that meets all the
4 criteria set up, both under the act and the
5 revenue procedure, it can still be a per capita
6 program in violation of IGRA. I think those are
7 mutually exclusive circumstances and I think
8 the revenue procedure makes that clear, but
9 NIGC remains unaware of that and apparently
10 refuses to accept the notion.

11 So really from Kickapoo's
12 perspective, I really would like to see some
13 kind of interagency communication and dialogue
14 and understanding on that issue. So thank you
15 very much for your consideration. I'm certainly
16 happy to talk with you more about the
17 particulars of that situation. So thank you.

18 CHAIRMAN ALLEN: Thank you. Rob?

19 MR. PORTER: Good afternoon,
20 everyone. Robert Odawi Porter. I'm a citizen of
21 the Seneca Nation and a former president of my
22 nation. I represent the Lummi Nation and the

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1 Coushatta Tribe of Louisiana and several
2 Native-owned businesses. Thanks again for the
3 continued great work in terms of moving this
4 process forward and elevating Treasury. Madame
5 Treasurer, I think it's great to see you in
6 this lead role, especially, in terms of how I
7 think the entire federal government, certainly
8 the Treasury Department, is stepping forward to
9 help.

10 I want to add just a couple of
11 points. One relates to engagement with Native
12 leadership. I've been on some of the
13 consultations. It's tough to get people excited
14 about tax and Treasury.

15 CHAIRMAN ALLEN: Tell me about it.

16 MR. PORTER: Tribal leaders are very
17 busy, as I know from my former life, but
18 certainly working with the folks I do now. I
19 think that continuing to explore ways either
20 through the formal process, which seems not
21 probably the best way to do it, but the
22 informal process of how we can better engage

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1 Native leadership. The way I think about all
2 these issues is fairly simple.

3 Number one, we need more help
4 putting more dollars in the pockets of Native
5 people, especially those who live in our
6 territories. For themselves, for their
7 families, to take care of our nations. Simple.
8 Secondly, don't let the government take any
9 more dollars out of our pockets than they
10 should be in terms of--and that's where the
11 auditing, the IRS and the enforcement side
12 comes in.

13 Thirty billion dollars the Deputy
14 Secretary proudly took credit for on behalf of
15 the federal government that went to Indian
16 Country. That's a once in a lifetime dynamic.
17 But there are great things happening with
18 tribal governments, with Native entrepreneurs
19 every day that is not so dramatic, but super
20 important for Native people. That's where I
21 think Councilman Cagey's comments are really
22 terrific in terms of what's the plan?

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1 Some of this stuff is really hard,
2 and there are a few of us who spent enough
3 years working in this area that we kind of have
4 it in our head about what we think needs to be
5 done. But we really need to be laying down the
6 trail for our successors. I'm not planning on
7 doing this 'til my last breath, and you're
8 probably not either. But what's the path? I
9 think that's where Treasury has a unique role.

10 The economic plan of the United
11 States must include the economic plan for
12 Indian Country and Alaska Natives. There are so
13 many places in this country that are literally
14 in another century in terms of their economic
15 lack of development. No amount of money of just
16 sending it out in a check is going to fix that
17 in terms of dealing with infrastructure,
18 especially, human infrastructure, and the way
19 in which Native people need it to survive.

20 So I would just offer that that's
21 really important, and the best plan has to
22 involve our Native leadership. We've got to

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1 figure out a way to make this exciting for them
2 to be involved. I'm glad to help, but I would
3 just invite that collective need. If you don't
4 get good input from our leaders, you're not
5 going to get a good plan, and we need you to do
6 the plan.

7 Second related point, in addition to
8 some of the resolutions that were passed, there
9 was also a resolution passed by NCAI that dealt
10 with training of the agents. It envisions a
11 fairly robust training program. I know the
12 subcommittee is involved in that issue, but my
13 law professor tells me that it's kind of hard
14 to teach the basics in 15 weeks in a three-
15 credit course, much less really what an agent
16 in the field needs to know when they're dealing
17 with a tribal government or a Native-owned
18 business.

19 I hope that that becomes the subject
20 of consultation, that there's a plan that's
21 developed, a program, a curriculum, something
22 that a few of us are glad to help you with if

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1 you're interested. But it really is something
2 that must be robust. Don't get me wrong. I
3 think we all realize it will happen at some
4 point, that the audits are going to resume, but
5 we do think that the general level of knowledge
6 of the citizenry is so low that, my goodness,
7 we've got to do a lot to train and make sure
8 the folks working in Indian Country--similar to
9 what I think Director Zucker has spoken of--is
10 really something we can build upon because it's
11 really, really important.

12 Way too many horror stories in the
13 past about frankly, the simple reality that
14 agents start with the presumption that the
15 taxpayer is liable. Actually we're living in an
16 environment under the law where Congress said
17 except in the case of general welfare benefits.
18 The Native person is presumed not responsible
19 as it relates to taxation of benefits. We need
20 to help change that cultural foundation, I
21 think. But that's my final comment, and thank
22 you again for your time.

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1 CHAIRMAN ALLEN: Thank you, Rob.

2 MR. BARRAZA: Hi Treasurer Malerba
3 and Chairman Allen. Thank you for having us
4 here. So I actually wasn't that prepared to ask
5 a question. CHAIRMAN ALLEN: Can you

6 introduce yourself first?

7 MR. BARRAZA: Sorry. My name is
8 Xavier Barraza. I'm an attorney for Peebles
9 Kidder. I'm an enrolled member of the Hopland
10 Band of Pomo Indians. I'm here on behalf of
11 Santee Sioux, Flandreau Santee Sioux, I
12 apologize. Krishna, this is actually directed
13 to you, the tax credits. So one of the tax
14 credits where we've actually had some
15 discussions with the administration and it
16 seems that they're confused, as well, which is
17 completely understandable, but specifically
18 with 45D.

19 It's a new tax credit that allows a
20 10-year tax on the production of hydrogen. So
21 as you know, a lot of tribes are tax-exempt. So
22 getting those credits aren't really going to do

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1 a whole lot, but a lot of the tribes get
2 together with partnerships for non-Indian
3 corporations to try to develop those. We just
4 want to make sure that the tribe as the
5 majority owner of a corporation to develop
6 those has the capacity or the ability to
7 transfer those credits to their partners, who
8 are usually non-Indian.

9 Because sometimes where you actually
10 develop those resources, there's probably three
11 places in tribal areas in the United States
12 that you can actually develop hydrogen. You
13 can, but most of those areas are off-
14 reservation. So we want to be able to make sure
15 that while you're developing on the reservation
16 you have the same ability to off-reservation.
17 Those really only happen on Navaho lands or in
18 the Midwest where there's capped oil or
19 refineries--well, something that's capped--to
20 do it off-reservation.

21 I just want to make sure that you
22 can transfer this. I just want to make sure of

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1 that comment. Thank you.

2 MR. VALLABHANENI: Thank you for the
3 comment and the question. The way, part of it
4 is we're sort of still kind of working real-
5 time to--we're getting the questions and sort
6 of trying to incorporate them into our
7 thinking. The particular rule that I was
8 talking about is Section 6417 in the tax code.
9 The way it's sort of set up is it lists a bunch
10 of so-called applicable entities. The entities
11 that qualify for essentially payments from the
12 IRS instead of a credit--and people can think
13 of them very generally as like, tax-exempt type
14 entities, including government entities, et
15 cetera.

16 The rules do have, do appear, or
17 they're written this way, at least, where
18 you've got the list of entities and the rules
19 that apply to the entity itself that's doing
20 the project. But it also clearly has special
21 rules for partnerships. In that case, there's a
22 separate type of election where it's not even

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1 pretending to be like, oh, we're going to
2 pretend you paid the IRS and then give you a
3 refund to the extent you don't owe any tax.

4 It's just a check to the
5 partnership. Then I would assume, and this is
6 where we will--this is going to be not a short
7 process. There will be a lot of continuing
8 feedback. But just in general what the
9 partnership does with that I think would be
10 described in the partnership agreement. I don't
11 think there's any special--the general
12 partnership tax rules, but outside of that I
13 think how monies get allocated is up to the
14 partners.

15 MR. BARRAZA: That's how it reads,
16 but as Rob just mentioned, there are some rules
17 that are in legislation that the administration
18 still has a hard time understanding. So we just
19 wanted to make sure that's a clear process when
20 it comes down to actual tribes allocating using
21 those tax credits, which will also be developed
22 in the training process.

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1 MR. VALLABHANENI: Oh yeah, there's
2 going to be a lot of training. The one thing
3 about--and I understand there's--and this is
4 not limited whatsoever to Indian Country. I
5 know there's just a lot of pent-up energy to do
6 a whole bunch of things under the Inflation
7 Reduction Act, but no one's comfortable enough
8 with what we have so far to necessarily take
9 those steps. So that creates a level of
10 frustration that we're aware of constantly.

11 MR. BARRAZA: Glad to hear that
12 there's going to be a lot of training coming
13 down.

14 MR. VALLABHANENI: Yeah.

15 MR. BARRAZA: Thank you.

16 MR. VALLABHANENI: Thanks.

17 CHAIRMAN ALLEN: Thank you.

18 CHIEF MALERBA: It may be helpful to
19 just send those specific comments, though?
20 Thank you.

21 CHAIRMAN ALLEN: Yeah.

22 MR. PONCHO: Hi, Kristian Poncho,

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1 Secretary Treasurer of the Coushatta Tribe. I'd
2 like to say I'm appreciative of Treasury being
3 such a champion for Indian Country, and I
4 really support the work that the TTAC and
5 Treasury is doing with the implementation of
6 this generational amount of funding for Indian
7 Country. There are so many opportunities for
8 tribes out there currently, and specifically
9 hearing you talk about the energy credits and
10 the grid resiliency, Krishna.

11 What worries me particularly is that
12 not all departments are as active and great
13 stewards of tribal issues as Treasury are. And
14 specifically whenever it comes to the
15 consultation between the two departments, it
16 seems that the degree for respect in Native
17 issues is lost. So I would just like to implore
18 that Treasury continue to be a good steward
19 whenever it comes to advocating for Indian
20 issues, specifically with the grid resiliency,
21 the formula funding for every state and every
22 tribe for grid resiliency.

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1 We were one of the first tribes to
2 get our application approved, but we're
3 actually unable to actually get the funding
4 because Department of Energy is still running
5 into issues with promulgating the rules for
6 giving the funding to tribes because we're
7 treated as states as far as the regulations go.
8 So as I mentioned, this funding and the
9 opportunities for Indian Country, it's once in
10 a generation.

11 For as long as we're, the
12 departments are working on promulgating rules
13 and such, I'm worried that Indian Country is
14 going to get left behind. I don't want to see
15 that. I don't want to see the same issues that
16 Councilman Cagey mentioned that it seems like
17 nothing's changed. I'm new and I'm in the game
18 of tribal politics and such, and tribal
19 leadership, and I just want to make sure that
20 we get everything that we're owed with this
21 funding that's out there. So thank you.

22 MS. ABBAS: Thank you for that

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1 comment. Department of Energy actually reached
2 out to me to learn about Treasury's approaches
3 on our recovery programs because Treasury went
4 through the same experience of trying to adopt
5 these programs that are applicable to every
6 government and customize it for tribes within
7 the boundaries of the law. So I am due to give
8 them an overview, and hopefully that will help
9 them to find flexibilities under their
10 respective programs.

11 But we definitely look forward to
12 working together with Energy I know on IRA, but
13 there are a lot of intersections. Shaun's been
14 great for Commerce, too.

15 MR. PONCHO: Good. That's helpful to
16 hear. Thank you.

17 MS. ABBAS: Yep.

18 CHIEF MALERBA: And I would just like
19 to commend our tribal team because on the
20 Treasury-specific programs, they worked really
21 hard to educate people here within Treasury
22 about what's different in Indian Country around

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1 the regulations, around the reporting, around
2 the compliance. It takes a lot because every
3 tribe, as you say, are also very different.

4 So we have stressed over and over
5 and over again not one solution is going to fit
6 all tribes. So just it's ongoing work and it's
7 work in progress, but it's important work.

8 CHAIRMAN ALLEN: I think it
9 underscores the importance of the Deputy
10 Secretary wanting to get out in Indian Country.
11 We certainly invite our Treasurer when she has
12 time to visit Indian Country. Joking aside, but
13 that is important that the senior leadership of
14 Treasury and IRS, and that's why I had asked
15 for the commissioner to show up. We know that
16 everyone's busy, so it's just a matter of
17 picking an area to go visit and actually
18 experience what we deal with in our respective
19 communities.

20 CHIEF MALERBA: I will tell you that
21 there are many departments in Treasury that are
22 anxious to get out into Indian Country, not the

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1 least of which being the Office of General
2 Counsel, which I think is really great. So we
3 are making a trip out to Washington with the
4 CDFI fund this month. We're trying to engage
5 more departments within Treasury to come out,
6 just not leadership, but departments that
7 actually engage with Indian Country.

8 So that's the goal over the next
9 couple of years and then beyond, because once
10 I'm gone, Fatima will still be here leading
11 that charge.

12 CHAIRMAN ALLEN: Well, I will note
13 that Washington, DC is like a reservation. So
14 anyhow, joking aside, Krishna?

15 MR. VALLABHANENI: Are there any
16 other members of the public who'd like to make
17 comments?

18 MS. ABBAS: We've got folks online if
19 there's no one else in the room, so we can go
20 to Josh for that.

21 MR. VALLABHANENI: Sure.

22 MR. JACKSON: Yeah, first off we have

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1 Jean Swift.

2 CHAIRMAN ALLEN: Who do we have,
3 Josh? Oh Jean?

4 MEMBER SWIFT: Good afternoon. Hi
5 there, Chairman. So I'm aware that tribes have
6 requested that consultation occur regarding
7 increasing the tax reporting threshold for slot
8 machine jackpot winnings to \$5,000 and
9 authorize future adjustments at the discretion
10 of the IRS Commissioner. The current threshold
11 for tax information reporting for slot machine
12 jackpot winnings at gaming facilities was set
13 at \$1,200 in 1977, more than 45 years ago,
14 through regulation and has remained stagnant
15 since then.

16 As a result, inflation has decreased
17 the value of that threshold, resulting in an
18 increased number of Form W2G reports filed each
19 year. This has led to an increased
20 administrative cost for gaming facilities and
21 creates paperwork backlogs and operational
22 burdens at the IRS. In fact, data developed by

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1 the IRS demonstrates the number of W2Gs filed
2 by tribally-owned facilities represents half of
3 all W2G forms filed each year.

4 In short, I would ask that Treasury
5 begin consultation with tribes on this issue in
6 the near future. Thank you.

7 CHAIRMAN ALLEN: Thank you, Jean.
8 Anybody else online, Josh?

9 MR. JACKSON: Yeah, next up we have
10 Lisa Maybee. Lisa, if you're able--there you
11 go.

12 MS. MAYBEE: Can you hear me?

13 MR. JACKSON: Yes.

14 MS. MAYBEE: Oh, now I stand out. My
15 name is Lisa Maybee. I'm a Seneca National
16 Tribal Councilor. On behalf of the Seneca
17 Nation, I thank you for this opportunity to
18 provide remarks today. I hope everyone's
19 families are safe and healthy. Congratulations
20 to Fatima on being appointed the first Director
21 of the Office of Tribal & Native Affairs.
22 You've been a great advocate and supporter of

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1 Native nations, and the Seneca Nation looks
2 forward to working with you in your new role.

3 We also want to thank Chief Malerba
4 for meeting with us regarding the
5 implementation of the Tribal General Welfare
6 Exclusion Act and the TTACs TGWEA report during
7 USEP. We appreciate the agency's consultation
8 efforts and decision to reevaluate the TTAC's
9 report, and especially your willingness to meet
10 with us and to engage in oral dialogue about
11 our comments.

12 First comment, as the agency reviews
13 the comments it received during the TGWEA
14 consultation process, we ask that it follow its
15 own tribal consultation policy and meaningfully
16 consult with Native nations and as it creates
17 regulations, to defer to Native nation
18 governments. This means that before triggering
19 the formal rulemaking process and issuing a
20 proposed rule in the Federal Register, the
21 Seneca Nation urges the agency to circulate a
22 draft of its proposed TGWEA regulations to

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1 Native nations for comment, along with its
2 initial feedback on the comments it received
3 during the consultation period.

4 Treasury and IRS should follow the
5 Interior Department's practice that it used for
6 the Parks 151 and 293 regulations and circulate
7 a draft version of its proposed regulations to
8 Native nations for consultation and comment
9 before publishing a proposed rule in the
10 Federal Register for formal general public
11 review. Native nations do not know the agency's
12 views and concerns regarding the TGWEA
13 regulation issues.

14 Adopting this approach will allow
15 Native nations to be able to understand the
16 agency's concerns and respond to them before
17 formal regulations are issued to the general
18 public. Once those formal regulations are
19 issued, it will be very difficult to change
20 them and Native nations should not be hearing
21 the agency's views for the first time at the
22 proposed rule stage.

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1 We also want to acknowledge and
2 commend the Treasury for recently announcing
3 that it has reopened the Office of Recovery
4 Programs Contact Center. This center provides
5 important resources and administrative support
6 that will continue to help Native nations
7 recover from the pandemic. Culturally
8 appropriate support to Native nations must
9 continue so that we can comply with the
10 complicated federal guidance and reporting.

11 Native nations are governments, not
12 individuals and businesses, and we thank the
13 agency and its current leadership for
14 recognizing that and reopening support and
15 resources to assist us. Finally, we ask that
16 the TTAC subcommittees provide information to
17 Native nation leaders on when its meetings will
18 be held, with sufficient notice to Native
19 nations as to when the meetings will occur so
20 that we may participate.

21 It is unclear how Native nation
22 leaders can get involved in the TTAC current

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1 work, and it would be helpful to know when the
2 subcommittee meetings occur so we can attend.
3 We do have a few questions regarding the status
4 of other issues that have been pending before
5 the agencies for a long time. First, has the
6 IRS taken any steps to allow the Indian Tribal
7 Governments office to provide customer service
8 directly to Native nations again?

9 During the last TTAC meeting, the
10 Seneca Nation discussed concerns regarding the
11 IRS decision to stop allowing the ITG office to
12 provide service directly to Native nations.
13 This resulted in Native nations being forced to
14 join the long IRS phone line in issue queues as
15 any regular individual taxpayer or a near
16 business instead of being able to work on a
17 nation-to-nation basis with the agency or
18 receive service directly from the ITG office.

19 Second, does Treasury have
20 additional information about when it expects to
21 issue guidance on tribally-chartered
22 corporations? The Nation previously submitted

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1 comments urging Treasury to issue guidance to
2 clarify that corporations wholly owned by a
3 Native nation government and chartered under
4 Native nation law are not taxable under federal
5 law. Native nations have been asking for this
6 for years and we would like an update on the
7 status of this.

8 Lastly, have there been any further
9 efforts to work with the Social Security
10 Administration or other federal agencies to
11 exclude TGWEA benefits from federal eligibility
12 determinations for programs like SSI, SNAP and
13 HUD assistance? This continues to be an issue
14 for our people. It would be helpful to know if
15 there are any plans for future consultations or
16 webinars in the SSA bond requirements in
17 relation to TGWEA programs.

18 This concludes my comments. Thank
19 you for the opportunity to speak, and have safe
20 travels home.

21 CHIEF MALERBA: So it's Treasurer
22 Malerba. Thank you so very much for your

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1 comments. We really appreciate you providing
2 that feedback, and it was really helpful to me
3 to meet with you all, your delegation at USEP,
4 so I appreciate that. I did want to just
5 acknowledge that we do anticipate sending out
6 the draft of the guidance before it gets into
7 the Federal Register. I think that's the proper
8 way to proceed with GWE so that we can just
9 circle back with Indian Country, and we
10 appreciate that.

11 I think I'll turn it over to Fatima
12 to talk about the tribally-chartered
13 corporations and then I know you had something
14 specific for ITG. So I'll turn it to Fatima
15 first, though.

16 MS. ABBAS: Thank you for those
17 comments. So earlier I announced that Treasury
18 and IRS are preparing to do a consultation on
19 the tax status of tribally-chartered
20 corporations. There's a lot of diversity of
21 opinion right now regarding whether Treasury
22 should put out guidance solely related to

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1 wholly-owned corporations or include majority-
2 owned tribal corporations.

3 So there will be a list of questions
4 to tribal leaders so that Treasury can begin
5 working on the guidance. So right now there's
6 no specific date for the guidance because first
7 there will be a consultation in the coming
8 months to receive tribal leader feedback. Thank
9 you.

10 CHAIRMAN ALLEN: I can tell you just
11 from my perspective, Fatima, it's going to be
12 important to know, tribally wholly-owned
13 corporations is pretty straightforward.
14 Tribally partially-owned, meaning 51%, that's
15 the typical kind you would see, the issue will
16 be what's the issue with regard to if you don't
17 own all of it, you own part of it? So as we're
18 wrestling through the clarification, what does
19 it mean in terms of the guidance and in terms
20 of the tax exemption of the activities of the
21 corporation?

22 So as we wrestle with that, that

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1 would be important for us to know what those
2 issues are so that we can respond, whether we
3 concur or not as we engage. So I'm just
4 throwing that out as an observation, because my
5 tribe, as an example, we have both. I've got
6 wholly-owned and then we've got 51% owned. I
7 actually have one that's 50/50. So I want to
8 know what the problem is.

9 MS. ABBAS: That's hope one,
10 definitely the goal. That's why we didn't
11 notice a consultation yet because the questions
12 are going to be particularly important. As you
13 mentioned, the more complicated part is the
14 majority-owned. I think wholly-owned is a more
15 easier question to address. But similar to GWE,
16 the goal is to have questions that are targeted
17 to provide useful feedback so tribal leaders
18 know where IRS and Treasury may be at. That's
19 the point of the detailed Dear Tribal Leader
20 letters.

21 CHAIRMAN ALLEN: Okay, thank you.
22 Yep, by all means, Sharon?

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1 VICE CHAIR EDENFIELD: Thank you,
2 Lisa. I know that you addressed social security
3 and other programs that base their benefits on
4 income. One of the things we learned early on
5 our subcommittee when we were first looking at
6 social security, we thought it would be a one
7 fix all, but that's not the case. What we're
8 starting with social security, we'll have to
9 meet individually with every federal partner,
10 which is unfortunate, unless it may be a
11 legislative fix. We don't know.

12 But like I said, we started with
13 social security, but it's not done there. We
14 need to get this fixed across all of our
15 federal partners. So thank you for your
16 comments.

17 CHAIRMAN ALLEN: Was there other
18 things you were going to address, Madame
19 Treasurer? Carmean?

20 MS. ZUCKER: So thank you for the
21 feedback. I know we received feedback from
22 several tribal governments here today with

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1 respect to concerns about reaching our office
2 for assistance on a government-to-government
3 basis. So we've heard the comments and we're
4 going to take it back and hopefully report
5 back.

6 CHAIRMAN ALLEN: Okay, do we have any
7 more? Josh, do we have anybody else online?

8 MR. JACKSON: Yeah, up next is Sam
9 Cohen.

10 CHAIRMAN ALLEN: Wait, wait. Is there
11 somebody online? I didn't quite hear.

12 MR. COHEN: Can you hear me now, sir?

13 CHAIRMAN ALLEN: Oh, yeah. Who is it?
14 Oh Sam, yeah, go ahead Sam.

15 MR. COHEN: Thank you very much,
16 Chairman Allen. I'm Sam Cohen. I'm privileged
17 to sit on your General Welfare Exclusion
18 Subcommittee. I also ask for favorable
19 consideration of the proposed regulations that
20 have been proposed by the General Welfare
21 Subcommittee. Second, I'm also privileged to be
22 on the IRS Advisory Committee and I want to

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1 thank Carm~~a~~en Zucker for generously giving up
2 her time to this committee.

3 Third, Santa Ynez Band of Chumash
4 Indians is one of the tribes that requested
5 government-to-government consultation regarding
6 raising of the W2G threshold for slot machine
7 reporting from \$1,200 to \$5,000 to more
8 correctly index that threshold with inflation.
9 We have yet to receive any kind of response
10 from Treasury, not even an acknowledgement
11 they've received our letter.

12 So I see that Treasury is working on
13 their consultation process, so maybe one of the
14 first things that Treasury can implement is an
15 acknowledgment process when they receive
16 government-to-government consultation requests
17 from federally-recognized Indian tribes so that
18 we at least know that they have gotten our
19 request for consultation and we're in the
20 queue, so to speak. That would be very helpful.

21 And then we also want to point out
22 that this W2G issue is a tribal issue. We

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1 received data developed by the IRS that
2 demonstrates that the number of W2Gs filed at
3 tribally-owned facilities represent half of all
4 W2Gs filed each year for gambling.
5 Additionally, the number of forms filed from
6 tribal facilities has increased from 4,758,277
7 in 2019 to 10,250,000 in 2021, which is a 115%
8 increase that is requiring additional employees
9 to process these forms and hindering tribal
10 government employment because we're putting all
11 our people in processing W2Gs.

12 Finally, increasing this threshold
13 is consistent with the goals of the IRS efforts
14 to modernize as required under the Inflation
15 Reduction Act. So in short, I would ask that
16 Treasury begin consultation with tribes on this
17 important reporting issue at its earliest
18 opportunity. Thank you very much.

19 CHAIRMAN ALLEN: Okay, Fatima?

20 MS. ABBAS: Sure. Sam, thank you for
21 that comment. Treasury did just last week
22 confirm receipt, but I don't think you were on

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1 that email chain. But your comments are duly
2 noted. It was referred internally for IRS and
3 Treasury's review, and we hope to get back to
4 you and other tribes on the consultation
5 request regarding that issue.

6 CHIEF MALERBA: And Sam, just so you
7 know, Ethics has specifically asked, told me
8 that I cannot engage on any gaming issues given
9 the fact that my tribe is a gaming tribe. So
10 you will not be hearing from me, and it's not
11 that I don't care about every tribal issue.
12 It's just that this is one that I'm
13 specifically excluded from opining on.

14 CHAIRMAN ALLEN: Well, if you could
15 what would you say?

16 (Laughter.)

17 CHIEF MALERBA: I'm not getting in
18 trouble.

19 CHAIRMAN ALLEN: Okay, I tried.

20 (Laughter.)

21 CHAIRMAN ALLEN: So okay, Sam--

22 MS. ABBAS: I think--oh sorry, do you

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1 want to respond more to Sam?

2 CHAIRMAN ALLEN: I was just going to
3 say we're following up on it. I don't know what
4 the hell all these lights are. My battery's
5 wearing out up here. So anyhow, we'll get back,
6 Sam, and follow up, basically. I was going to
7 joke your response is in the mail, so stay
8 tuned and look at your mailbox. That's
9 basically what Fatima said. Just joking aside.
10 Okay, you were pointing at something?

11 MS. ABBAS: I think we have one other
12 person. I know there's one person in the room
13 and then we've got some more comments online.
14 But let's take the commenter in the room.

15 CHAIRMAN ALLEN: All right, go ahead.

16 PARTICIPANT: Thank you, Chairman,
17 Madame Treasurer. My name is Sahalin. I'm from
18 the Yakama Nation. I'm a member enrolled in
19 Yakama Nation. Only thing I'd like to do is
20 plant a seed with the IRS regarding the lack of
21 exemption for treaty trade income. Under
22 Section 7873, there is an exemption for treaty

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1 fishing income, but nothing for under Article 3
2 with the Yakama Nation Treaty of 1855. This is
3 my first meeting, maybe we have a follow-up in
4 June, but just wanted to make you guys aware of
5 this issue. Thank you.

6 CHAIRMAN ALLEN: Thank you. Any
7 comments by anybody? Okay, thank you. For the
8 record, I really appreciate that. Is there
9 anybody else online, Josh?

10 MR. JACKSON: We don't have anybody
11 wishing to make comments online, but we do have
12 some questions that's been entered into the
13 chat that I'm happy to read aloud and if
14 anybody around the table would like to respond
15 to it, if that's okay?

16 CHAIRMAN ALLEN: And what was the
17 question?

18 MS. ABBAS: He's going to read them.

19 MR. JACKSON: Yeah, the first
20 question is what would these education efforts
21 involve? Education of the tax administration
22 agents or those on the front line?

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1 MS. ABBAS: That question in regard
2 to the training of IRS agents under the Tribal
3 General Welfare Exclusion Act, I think that
4 that has not been decided, neither by the
5 subcommittee has not made recommendations. But
6 I think it's a question that's ripe for review.

7 CHAIRMAN ALLEN: Yeah, as we had so
8 noted that we need to finish off getting the
9 actual regulations finally approved. So we'll
10 be crossing that bridge of training of the
11 agents after we get the regs done. Well,
12 probably as we're preparing and getting closer
13 to it, we can cross the bridge of what's the
14 game plan, because we haven't even identified,
15 I guess, the approach on the issues that we
16 need to review with the agents over the
17 regulations and how they are to be understood
18 as they apply to tribes. I think that's my best
19 response. Rob, did you want to address that
20 point?

21 MR. PORTER: Not particularly.

22 CHAIRMAN ALLEN: You have a different

1 one?

2 MR. PORTER: I have a different
3 point.

4 CHAIRMAN ALLEN: Okay. Go ahead.

5 MR. PORTER: My point is procedural,
6 because as we're hearing, there's some really
7 terrific suggestions and ideas. I would
8 recommend that the TTAC consider some kind of
9 intake process so we know do you need a letter
10 to send something to be considered by the TTAC?
11 Some resolutions have been secured over the
12 last couple of years. What's the form by which
13 we can get a matter in front of you? And then
14 what's the procedure by which you will consider
15 something active for your review versus
16 something that's not a priority?

17 In many ways, I would recommend
18 there be some kind of--even on your agenda, old
19 business and new business. Only you're going to
20 see what people are sending in by the Treasury
21 consult. We don't necessarily see everything, I
22 don't think. And so if there are legitimate

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1 issues that you're working on, I think it would
2 be helpful if that's recorded somewhere so we
3 could see what the flow and the business is of
4 the TTAC.

5 There will be invariably leaders and
6 lawyers and lobbyists, et cetera, who will have
7 things to say to help you and/or to stop you. I
8 think that would be useful if there's a better
9 procedure for how the workflow the TTAC is
10 going to be moving forward as there are more
11 and more issues, and given the breadth of your
12 mandate to advise on all matters related to the
13 taxation of Indians under the statute.

14 CHAIRMAN ALLEN: Well, I think that's
15 a good suggestion. Fatima, maybe you can assist
16 us on coming up with an approach on how tribes
17 engage with us on subject matters, whether it's
18 Germaine to our committees or not, I think is
19 the point. Does that make sense?

20 MS. ABBAS: Yes, I think that's a
21 good flag. I remember pre-pandemic most of the
22 tribal comments used to come into the TTAC

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1 inbox. Now they come into the tribal.consult
2 inbox about a range of matters. So I think
3 there's public engagement that can be done on
4 the best means of communication with the TTAC.
5 So we'll work on that.

6 CHIEF MALERBA: And also as a former
7 member of TTAC, there was a laundry list that
8 we created early on about the topics that we
9 wanted to address. So we can maybe refresh
10 that. I know it's in our minutes somewhere, but
11 maybe we can refresh that list and talk about
12 that a little bit at our next meeting.

13 CHAIRMAN ALLEN: Yeah, that laundry
14 list is growing. Okay, was there another
15 question?

16 MR. JACKSON: Yeah. Next question is
17 has there been any movement on the means
18 testing issues connected to the administration
19 of 139(e)?

20 CHAIRMAN ALLEN: Who would answer
21 that? Lisa?

22 MS. MOJIRI-AZAD: Yeah, I'm just

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1 curious. Means tested issues? Unless I'm
2 missing something?

3 MS. ABBAS: I'm wondering if the
4 question relates to whether GWE regulations
5 will require means testing. I know that was an
6 issue of concern in the tribal GWE comments. I
7 think the answer there is that the GWE
8 regulations are pretty far off, so IRS does not
9 have a position on that.

10 CHAIRMAN ALLEN: That is a delicate
11 one that we'll have that--that conversation has
12 surfaced early on. Whether or not that--it goes
13 to my point when the agents should defer to the
14 tribal codes in terms of the eligibility for
15 different programs. I'm just surmising, will
16 the agents determine, have some sort of
17 guidance that no, that doesn't fit our means
18 testing of eligibility criteria in terms of
19 your standing. We haven't crossed that bridge
20 of conversation.

21 Generally what we've said is that
22 when we provide services to our citizens,

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1 regardless of their income, we treat them
2 equally. We treat them all equal. They're all
3 equal citizens and whatever that benefit is,
4 that's often the technique. But we often have
5 programs that we designate for them. A good
6 example would be elders. A good example would
7 be veterans and families that have
8 disadvantages, et cetera, or economic
9 disadvantages.

10 So it's a complicated question and
11 layered, if you will.

12 MS. MOJIRI-AZAD: And I appreciate
13 Fatima's explanation of the issue, but I think
14 it also goes to the notion of welfare benefits
15 that's referenced in Section 139(e). That's
16 something that we have continued and we are
17 going to keep working on.

18 CHAIRMAN ALLEN: Okay, fair enough.
19 Josh?

20 MR. JACKSON: I will also note all of
21 these questions are coming in anonymously, so I
22 don't have a lot of context other than what's

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1 been submitted. But the next question is there
2 are cases with other regulatory agencies, such
3 as the National Indian Gaming Commission,
4 reviewing tribal general welfare programs
5 during the course of their investigation of
6 tribes and questioning general welfare payments
7 to members which they consider lavish and
8 extravagant.

9 Can TTAC work with other federal
10 agencies, such as the National Indian Gaming
11 Commission, to suspend such investigations of
12 general welfare payments until guidance is
13 provided in accordance with the act?

14 CHAIRMAN ALLEN: I give up. Who has
15 the answer to that one?

16 MS. ABBAS: Do you want me to jump in
17 to address that one? I think there's two parts
18 to that question. I think there's an individual
19 audit issue, and I know that there are certain
20 restrictions as to Treasury getting involved in
21 an individual audit. But to the extent that
22 there is a policy question being raised with

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1 regard to this intersection between revenue
2 allocation plans, GWE and gaming, I think that
3 relates to our other comment that here may be
4 interagency work that could be done with the
5 TTAC and NIGC on the policy issues.

6 CHAIRMAN ALLEN: Henry, go ahead?

7 MR. CAGEY: Again, Ron, that was a
8 point I was making earlier is that this whole
9 GWE was because of that. The IRS was auditing
10 our gaming revenue. They were tracking
11 everything that we were doing. They were
12 tracking the money they were giving to the
13 elders, they were tracking the money we're
14 giving to our youth. They were tracking
15 everything. So again, this whole GWE was
16 designed because of the gaming revenue that we
17 were receiving. So again, that was the purpose
18 of GWE.

19 So NIGC needs to be straightened,
20 you need to straighten them out, Krishna. But
21 somebody needs to straighten those guys out on
22 this whole purpose of why the general welfare

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1 was created. It was because of the IRS audits
2 that we've seen. It came out of one of the
3 administrations that made it a direct inquiry
4 of all the money that we were making. They put
5 the IRS on us and the audits began.

6 Again, over 2,000 audits were done
7 in 10 years. So again, we want to make sure
8 that you guys work with NIGC. It sounds like we
9 need to get him in front of us or get him in
10 front of the tribal leaders. But the whole
11 purpose for this thing was the benefits that we
12 were getting from gaming should have been tax
13 exempt. So again, I think we need to either get
14 a position on it or you guys figure it out.

15 This is where the whole GWE started
16 was because of this, because of the audits that
17 were happening in that 10, 15-year period. For
18 15 years we were audited. I think we didn't
19 think about it at that time, but I think it
20 sounds like we have to. That's it, Ron.

21 CHAIRMAN ALLEN: Okay, thank you. Did
22 I hear you right? You wanted us to straighten

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1 out NIGC? Is that--

2 MR. CAGEY: Yes.

3 CHAIRMAN ALLEN: I don't remember
4 that being our charge, but anyhow. We get it.
5 Shaun?

6 MS. DESCHENE: So I'm Shaun Deschene.
7 I'm a director over at Department of Commerce
8 for Native American business development and
9 all tribal affairs over there. I'm a member of
10 the Turtle Mountain Chippewa Band. I just
11 wanted to step up and take the initiative to
12 have Commerce start the interdepartmental
13 meetings and put that on record. Maybe next
14 month we'll start that and certainly invite the
15 IRS, and would love to hear maybe through your
16 office who the contact would be there so that
17 we could all be at the table.

18 Certainly understand the urgency
19 with Department of Energy having all this, and
20 the entire administration having all this
21 funding out for tribes now, and the general
22 public in effort to move forward their clean

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1 energy agenda and this transition again with
2 Justice 40 and 40% of these funds being
3 committed to underserved communities. Making
4 sure that we meet those metrics on our side
5 from the federal government, we understand the
6 time crunch here.

7 So I want to make sure that we're
8 identifying these barriers to economic
9 development for the tribes so that they have
10 access to this funding. I know somebody else
11 brought it up, too, so the tribes don't miss
12 the train and before this is all over. I know
13 there's a timing piece to all this,
14 specifically with say, for example, the energy
15 projects are so large that of course tribes
16 will be partnering with other organizations for
17 those skills and expertise, but also that
18 funding.

19 That is where that tax difference
20 will make a difference whether a project is
21 viable or not. So I know a lot of folks are
22 waiting with those types of large

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1 infrastructure projects, manufacturing projects
2 and the like, that those decisions are going to
3 be a make or break for those projects. The
4 administration's goal is to reach these
5 communities, so I certainly want to help pave
6 the way that this funding is getting to the
7 communities that it was intended for.

8 Are there any questions on that?
9 Okay, great.

10 CHAIRMAN ALLEN: I was just thinking,
11 Commerce to the rescue here. Thank you, Shaun.

12 CHIEF MALERBA: Thank you, Shaun.

13 MR. JACKSON: We've got two more
14 questions. Does the moratorium on GWE apply to
15 other federal agencies, as well, not just
16 Treasury?

17 MS. ABBAS: I think that's a fair
18 question for the attorneys at the other
19 agencies, but I don't know if you have--

20 MR. VALLABHANENI: Obviously anything
21 I say is not binding on anybody, but I think
22 the language that we're talking about is

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1 directed to the administration of the tax laws
2 that are administered from the Secretary
3 through the Commissioner of the IRS and all the
4 way down to the revenue agents. So I'm not
5 actually sure how another agency may or may not
6 be pulled into that.

7 There are situations where certain
8 taxes constitutionally are taxes, so payments
9 that are actual taxes are somehow delegated to
10 different agencies. But that starts at
11 Treasury. So for example, I believe that
12 certain agencies, like the IRS is not out there
13 collecting certain excise taxes on the alcohol,
14 tobacco, firearms type taxes. There's different
15 agencies that do that, but that taxing
16 authority could, that comes from the Secretary
17 of the Treasury.

18 I'm not sure that's really an
19 answer, but I think we'd be able to answer it
20 if there were a little more facts.

21 CHAIRMAN ALLEN: Okay, any others?

22 MR. JACKSON: Last question. Is there

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1 consideration to revise Section 7871 to allow
2 tribes to issue bonds akin to those that
3 municipalities issue?

4 CHAIRMAN ALLEN: Who's the expert on
5 7871?

6 CHIEF MALERBA: So we'll take a look
7 at that. I know there are tax-exempt bonds for
8 tribal governments, and I think the issue has
9 always been that there is that essential
10 governmental function test. But I do think that
11 is something that TTAC can work on with
12 Treasury. So I'll just leave it at that because
13 I know that is an outstanding issue.

14 MR. JACKSON: That's all of our
15 questions.

16 CHAIRMAN ALLEN: Okay, all right. I
17 think that's the end of our public comments.
18 Outside of that, just announcements, correct?

19 MR. VALLABHANENI: Yes,
20 announcements, any closing business.

21 CHAIRMAN ALLEN: Our next meeting is
22 scheduled for June 13-14, right Fatima? June

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1 13-14? Josh?

2 MR. JACKSON: 14th of June.

3 CHAIRMAN ALLEN: The 14th, oh, that's
4 right. The pre-meeting is the 13th. Okay, the
5 14th, and then we're targeting a meeting in
6 September given that we have our new--we'll get
7 confirmation for the four who are still up for
8 reappointment and the last secretarial
9 appointment that we'll be targeting. So that
10 will be forthcoming. We're not setting it at
11 this meeting, but we're targeting it. So just
12 for the audience.

13 Outside of that, I don't have
14 anything other than this meeting was very
15 helpful on a number of different levels. We're
16 getting back together and moving the envelope
17 of all three of the subcommittee items, as well
18 as getting other issues on the table. I
19 certainly do hope we can get more face-to-face.
20 The virtual works, it's helpful, but it's also
21 awkward. I have found it in other forums, so I
22 have a higher preference for more in-person.

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1 It's easier to engage back and forth
2 with regard to the discussions and talking
3 through the items. So hopefully that will be--
4 COVID and any other healthcare issues that are
5 behind us and we'll get back to more normal
6 course of business. So those are my
7 perspectives. I don't know if any of my
8 colleagues have any other comments? Will or
9 Jean, do you have any comments as we get close
10 to closing up?

11 MEMBER MICKLIN: No, thank you.

12 CHAIRMAN ALLEN: Okay, all right.

13 MEMBER SWIFT: No, it was a very
14 productive meeting. Thank you, Chairman.

15 CHAIRMAN ALLEN: Okay, thank you,
16 Jean.

17 Okay, Krishna, turn it back to you.
18 I think that we're at the end of our agenda.

19 MR. VALLABHANENI: Sure. The only
20 thing I'd say before adjourning the meeting is
21 that I think I would say my observation is
22 you're slightly less persuasive, Mr. Chairman,

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1 when we are on Zoom. So I appreciate the in-
2 person meetings, as well.

3 (Laughter.)

4 CHAIRMAN ALLEN: That's why I'm
5 willing to travel 3,000 miles to see your face
6 and sit next to you.

7 MR. VALLABHANENI: Oh. Well, thank
8 you. It's always an honor. And with that, the
9 meeting is adjourned. Thank you for attending.
10 Oh, that's right, sorry.

11 CHAIRMAN ALLEN: Yeah, let's close
12 with a blessing for all those who are
13 traveling.

14 MR. VALLABHANENI: My apologies.

15 CHAIRMAN ALLEN: And pray in your own
16 way, in your own spirit, if you would. So
17 heavenly spirit, we always look to you and
18 always ever so grateful that you're always
19 caring for all of our needs and caring for all
20 those who are participating. We particularly
21 look to your wisdom, that your wisdom is in our
22 hearts and in our minds and in our souls and

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1 spirits, that we would carry the compassion and
2 the understanding that we would find ways for
3 complicated solutions over issues that are
4 about our people and taking care of our people.

5 We're ever so deeply appreciative
6 that you're mindful of our children, of our
7 families, our communities, our elders, our
8 veterans, those that we care for deeply,
9 wherever they might reside. We always pray that
10 your healing hand is upon those who are in need
11 of your healing hand, if they are ill or if
12 they have lost loved ones. We thank you, you
13 have been here with us this day. We continue to
14 ask you to bless the leadership that is here,
15 all those who support the leadership, the
16 leadership in the federal government, the
17 leadership in the tribal governments and in all
18 of our communities.

19 We're ever grateful that we're
20 following your spirit, that you are providing
21 the kind of compassion and trust and confidence
22 in the world around us and in our future, as

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1 well. We pray you take everybody home safely to
2 their families and to their community. We pray
3 all these in Christ Jesus' name, Amen.

4 MR. VALLABHANENI: Thank you, Mr.
5 Chairman. The meeting is adjourned.

6 CHAIRMAN ALLEN: All right.

7 (Whereupon, the above-entitled
8 matter went off the record at 4:29 p.m.)
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