

**BUY NATIVE AMERICAN: FEDERAL SUPPORT FOR
NATIVE BUSINESS CAPACITY BUILDING AND
SUCCESS**

HEARING

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS

UNITED STATES SENATE

ONE HUNDRED SEVENTEENTH CONGRESS

SECOND SESSION

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MARCH 16, 2022
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**BUY NATIVE AMERICAN: FEDERAL SUPPORT
FOR NATIVE BUSINESS CAPACITY BUILDING
AND SUCCESS**

WEDNESDAY, MARCH 16, 2022

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 4:00 p.m. in room 628, Dirksen Senate Office Building, Hon. Brian Schatz, Chairman of the Committee, presiding.

**OPENING STATEMENT OF HON. BRIAN SCHATZ,
U.S. SENATOR FROM HAWAII**

The CHAIRMAN. Good afternoon, and welcome. We appreciate your accommodating our schedule change.

We wanted to be there at the White House as President Biden reauthorized the Violence Against Women Act. The bipartisan work of this Committee, its staff and the whole Administration, and everybody across Indian Country, Alaska Natives, Native Hawaiians, it was a moment worth celebrating. So we appreciate your allowing us to do that.

In his State of the Union Address earlier this month, President Biden renewed his Administration's commitment to Buy American and advance our Nation's economic security. Today's hearing entitled Buy Native American: Federal Support for Native Business Capacity Building and Success focuses on this commitment as it applies to Native communities. Specifically, we will examine how existing and newly developed Federal programs help to provide Native businesses with equitable access to capital markets and look at ways this Federal support can be improved.

Native-owned enterprises power community development, create jobs, and drive innovation in diverse sectors of the economy, from agriculture to clean energy to tourism. According to the Harvard Project on American Indian Economic Development, Native economies contribute more than \$127 billion to the United States economy on an annual basis, making them crucial sustaining forces, not just for their own communities, but for the whole Country.

Yet lack of access to capital and limited local infrastructure among other unique burdens restrict Native business' full access to the marketplace. These barriers persist despite dedicated Federal programs to serve Native businesses with funding, technical, and administrative assistance.

This Committee has an oversight responsibility to study not just the how but the why this inequity continues. Following passage of the recent Bipartisan Infrastructure Law and continuing implementation of the 2018 Farm Bill, we have a lot to consider.

I would like to extend a warm welcome, especially an aloha, to Ms. Kukui Maunakea-Forth, and to our other witnesses who are joining us today. I look forward to your testimony and your discussion.

I will introduce the first panel, and when Senator Murkowski comes, we will have her opening statement whenever that may occur. On the first panel we have Wizipan Garriott, the Principal Deputy Assistant Secretary for Indian Affairs for the Department of the Interior; Janie Simms Hipp, General Counsel for the Department of Agriculture; and Wahleah Johns, Director of the Office of Indian Energy Policy and Programs, Department of Energy.

I want to remind our witnesses that your full written testimony will be made part of the official record. So please keep your statement to no more than five minutes, so that members have time for questions.

Assistant Secretary Garriott, you may begin.

STATEMENT OF WIZIPAN GARRIOTT, PRINCIPAL DEPUTY ASSISTANT SECRETARY, INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Mr. GARRIOTT. Hello and good afternoon, Chairman Schatz, it is good to see you again. Iyuha cante nape ciyuzapelo. I greet you with a good heart. Wizipan emciyapelo, na Sicangu Lakota hemaca. My name is Wizipan Garriott, and I am a citizen of the Rosebud Sioux Tribe. I serve as Principal Deputy Assistant Secretary for Indian Affairs at the U.S. Department of Interior.

Thank you for the opportunity to present the Department's testimony at this important oversight hearing.

The socioeconomic success of Indian Country is close to my heart. I grew up culturally wealthy with a loving family. But we were economically poor. My home reservation has for decades ranked as one of the 10 poorest counties in the Country on a per capita income basis.

Prior to joining the Administration, I ran my tribe's economic development corporation where we created jobs, started numerous businesses and stood up an emerging CDFI and a community-based non-profit.

The Department has an important trust responsibility to support tribes and tribal governments in protecting their people, lands, assets and resources. Indian Country is diverse, and every tribal community is unique, with varying degrees of financial and business capacity. Therefore, our work must be interdisciplinary and multifaceted.

The Department directly supports economic development through the Bureau of Indian Affairs Office of Indian Economic Development, which provides loans, grants, and technical assistance to tribes, tribal enterprises, and individually owned businesses. The OIED Division of Capital Investment, delivers the Indian Loan Guarantee and Insurance Program. In operation for nearly 50 years, this program has helped Indian businesses secure over \$2

worth of private loans, while maintaining one of the lowest loss rates among similar Federal programs.

The OIED Division of Economic Development administers competitive grants, including the Native American Business Development Institute Grant, the National Tribal Broadband Grant, the Tribal Tourism Grant, the Indian Business Incubators Program, the Indigenous Tourism Grant, and the Living Language Grant. These programs deploy much-needed capital by supporting and building economic capacity throughout Indian Country.

Helping tribes develop their energy resources is also important. The BIA Office of Trust Services Division of Energy and Mineral Development provides technical assistance, grants, capacity building, and marketing assistance to tribal mineral renewable and natural resource owners to support sustainable tribal economies and to manage their own resources. Currently, the Office is partner on 229 projects on 145 reservations through both technical assistance and awarded grants.

The Buy Indian Act is another important economic development tool. The Act authorizes the Department of the Interior and the Department of Health and Human Services to purchase supplies, services, and certain kinds of construction equipment from qualified Native American vendors. The Department has prioritized supporting Indian economic enterprises. In Fiscal Year 2018, Buy Indian Act purchasing was \$85.4 million. In Fiscal Year 2021, it was nearly \$280 million, which represents 59 percent of all Indian Affairs purchasing power.

The Department is in the process of updating its Buy Indian Act regulations and expects to complete these updates by the end of spring. It is anticipated that over the next several years, the new regulations will result in up to 65 percent of Indian Affairs purchases being Buy Indian. This could potentially result in up to \$325 million flowing to Indian Country businesses on an annual basis.

Our work has also expanded where statutorily authorized to support Native Hawaiian communities. In 2021, OIED began assisting Native Hawaiian organizations with the enhancement and integration of indigenous tourism through the NATIVE Act.

Also today, the Department is proud to announce that we have approved our first tribal energy development organization for the Red Lake Tribe. The approval will allow Red Lake to forego Secretarial review when it enters into a lease or business agreement with TEDO, and when it enters into rights of way with the TEDO.

This Administration is firmly committed to working with tribes to meaningfully support economic development for American Indians, Alaska Natives, and Native Hawaiians. Thank you for the opportunity to provide the Department's views on these important matters.

[The prepared statement of Mr. Garriott follows:]

PREPARED STATEMENT OF WIZIPAN GARRIOTT, PRINCIPAL DEPUTY ASSISTANT
SECRETARY, INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Hello and good afternoon, Chairman Schatz, Vice Chair Murkowski, and members of the Committee. Iyuha cante nape ciyuzapelo. I greet you with a good heart. Wizipan emciyapelo, na Sicangu Lakota hemaca. My name is Wizipan Garriott, and I am a citizen of the Rosebud Sioux Tribe. I serve as Principal Deputy Assistant

Secretary for Indian Affairs at the U.S. Department of the Interior (Department). Thank you for the opportunity to present the Department's testimony at this important oversight hearing titled "Buy Native American: Federal Support for Native Business Capacity Building and Success."

The socioeconomic success of Indian country is an issue that is especially important to me. I was fortunate enough to grow up culturally wealthy with a loving family. But we were economically poor. My earliest memories are of no running water and frost on the walls of our one room trailer house in the winter. Through hard work my parents built a comfortable life for our family and helped me pay for college. But others in my community were not so fortunate. My home reservation has for decades ranked as one of the 10 poorest counties in the country on a per capita income basis. Prior to joining this Administration, I ran my Tribe's economic development corporation where we started numerous businesses and stood up an emerging community development financial institution (CDFI) and a highly successful community-based nonprofit.

The Department has an important trust responsibility to support tribes and tribal governments in protecting their people, lands, assets, and resources. This responsibility includes supporting and promoting economic development in American Indian, Alaska Native, and Native Hawaiian communities to support prosperity, meaningful livelihoods, and self-sufficient and sustainable economies. Indian country is unique and diverse, with different historical, geographic, and socioeconomic circumstances and varying regulatory, financial, and business capacities. Therefore, our work must be multifaceted, interdisciplinary, and collaborative.

The economies of Indian country in many ways mirror the larger economy. Tribes, tribally owned enterprises, and individual entrepreneurs are industry leaders in a wide variety of sectors, including manufacturing, hospitality, tourism, farming, ranching, processing, technology, IT, entertainment, telecommunications, finance and investments, and many more. Tribes and tribal entrepreneurs operate buffalo ranches, market produce and vegetables in mainstream stores, own energy development enterprises, provide AI services to the Department of Defense, create award winning art and TV shows, and contribute to the American economy in virtually every imaginable way.

It is also important to note that Indian country has a long and storied economic history. Tribal industriousness, ingenuity and use of technology created thriving communities rich in food, clothing, weaponry, horses, art, and other goods that were connected by vast inter-tribal trade networks spanning the entire continent. Tribal agricultural and natural resource management practices produced abundance, ensuring community safety nets for the elderly and disabled while promoting work and dignity across the entire community. Individuals often spoke multiple languages, including sign language, to facilitate diplomacy and trade. It is upon this foundation that tribes have and are building their futures, and it is our job to support Indian country in revitalizing their economies.

Office of Indian Economic Development

The Bureau of Indian Affairs (BIA) Office of Indian Economic Development (OIED) provides technical assistance, training, and funding to assist tribes and tribal members with starting and sustaining their businesses, bringing ideas to the marketplace, and taking advantage of government and private procurement opportunities. Through these efforts, OIED provides tribal business owners avenues to address the lack of access to credit and limited economic opportunities that exist in many American Indian and Alaska Native communities. Recent legislation has expanded eligibility for some of these services to Native Hawaiian Organizations (NHOs). OIED primarily fulfills its work in three interconnected ways: providing access to capital; grants; and technical assistance.

Access to Capital

Within OIED the Division of Capital Investment (DCI) delivers the Indian Loan Guarantee and Insurance Program (ILGP.) This program supports Federally recognized tribes, bands, nations, pueblos, rancherias, villages, communities, corporations and their members secure conventional business financing on terms comparable to the non-Indian business community, by guaranteeing or insuring up to 90 percent of outstanding loan principal and interest.

DCI works with lenders and their borrowers to help applicants meet the "reasonable prospect of repayment" standard required for guarantee or insurance approval. Loans must have a positive economic impact on a tribe or tribal service area but can otherwise be used for nearly any business purposes—from real estate, equipment or inventory purchase, working capital, construction or renovation, revolving lines of credit, and refinancing.

In operation for nearly 50 years, this program has helped Indian businesses secure over \$2 billion worth of private loans, while maintaining one of the lowest loss rates among similar federal programs. In fiscal year (FY) 2020 the ILGP leveraged \$7,042,637 of federal funding to create \$126,517,775 of investment in Indian country. In FY 2021, the ILGP leveraged \$10,204,000 of federal funding to create \$80,281,006 of investment in Indian country. It is clear, the more we invest in the ILGP, the more Indian country will leverage this vital and important program to help support their communities.

Grant Programs

Within OIED, the Division of Economic Development (DED) administers competitive grants to support Native entrepreneurs, broadband deployment, business development feasibility studies, and the documentation and revitalization of tribal languages. DED Grant Programs include the:

- Native American Business Development Institute Grant—Helps tribes weigh their risks to determine whether a project is worth pursuing and empower them to make informed decisions about their economic futures. Results from studies can often help tribes persuade lenders and investors to provide financial backing to help turn their idea into a reality.
- National Tribal Broadband Grant—Provides tribes the opportunity to receive funding to develop or extend broadband services in their communities.
- Tribal Tourism Grant—Increases capacity for tribes to plan, develop and manage tourism and related infrastructure in support of economic development. This includes NATIVE Act supporting grants for tribal tourism feasibility studies and tribal tourism business plan development.
- Indian Business Incubators Program—Provides funds to establish and run business incubators that serve entrepreneurs who will provide products or services in American Indian and Alaska Native communities.
- Indigenous Tourism—Provides technical assistance to tribes in the areas of tourism planning, management, and product development.
- Living Languages Grant Program—Provides funds to tribes to document and revitalize at risk languages.

Technical Assistance

As awareness of OIED services grows so too does the need to expand technical assistance. Currently, OIED provides technical assistance through grant training such as pre-application training, grant writing, and business planning. Technical assistance is available to all interested tribes, tribal organizations, and NHOs.

In addition to providing full life-cycle technical support services to OIED grantees and applicants, both virtual and onsite training events are opportunities to strengthen the connection between recipients and the federal staff who oversee these programs.

Office of Trust Services—Division of Energy and Mineral Development

Within the BIA Office of Trust Services, the Division of Energy and Mineral Development (DEMD) provides technical assistance, grants, and marketing assistance to tribal mineral, renewable, and natural resource owners to support sustainable tribal economies through environmentally sound management of their resources.

DEMD provides technical staff to assist federally recognized Indian tribes to identify and implement opportunities to maximize their revenue streams for economic resource development. This includes:

- Assessment of resources quality and quantity.
- Engineering Assessments—design, modeling, economic, analyses, equipment needs throughout the project.
- Marketing—local, regional, and national sales forecasts, marketing forecasting, existing and future competitions, opportunities and challenges.
- Financial—short and long-term income streams, financial documents, potential lenders, government contracts, grants, and federal funding initiatives.
- Loans—BIA Loan Guarantees, other loan guarantee programs, and assistance with working with local, regional, and national lending institutions.

DEMD is currently a partner on 229 projects on 145 reservations through both technical assistance and awarded grants. In FY 2020 \$8.1 million in grant funds were awarded.

Buy Indian Act

The Buy Indian Act authorizes the Departments of the Interior and Health and Human Services to purchase supplies, services and certain kinds of construction equipment from qualified Native American vendors (“Indian Economic Enterprises”). The Department, including the Office of the Assistant Secretary for Indian Affairs (AS-IA), BIA, and Bureau of Indian Education, has prioritized supporting Indian Economic Enterprises through the Buy Indian Act and plans to increase purchases from FY 2021 of \$279.6 million in FY 2022. Indian Affairs is currently in the process of awarding new construction contracts for three BIE schools to Indian Small Business Economic Enterprises.

Implementation of the Buy Indian Act has been an evolutionary process. Originally enacted in 1910, the Department developed implementing regulations in 2013 with an increased emphasis in Buy Indian Act usage during FY 2019. As a result, Buy Indian Act purchasing has increased from \$124.4 million in FY 2019 to \$279.6 million in FY 2021, which represents 59 percent of all Indian Affairs purchasing directly supporting Indian enterprises. Updated regulations are being developed according to consultation with Indian country. It is anticipated that these updated regulations, over several years, will result in up to 65 percent of eligible Buy Indian Act purchasing and will result in a steady increase of eligible Buy Indian Act obligations being awarded to Indian Economic Enterprises.

Office of Native Hawaiian Relations

Since 2004, the Office of Native Hawaiian Relations (ONHR) has been principally responsible for carrying out the Secretary’s trust responsibilities under the Hawaiian Homes Commission Act (HHCA), State of Hawaii Admission Act, and the Hawaiian Home Lands Recovery Act. In addition, ONHR has facilitated interagency efforts to address inequities that have plagued the Native Hawaiian Community in areas including economic development, educational achievement, health, housing, climate adaption, and the impacts of social and political dislocation.

In 2021, the Department administered the first economic development program specific to the Native Hawaiian Community. This included two cooperative agreements of \$600,000. ONHR, in collaboration with the OIED, assisted NHOs with the enhancement and integration of indigenous tourism through the NATIVE Act.

In addition, economic development grant pre-application training, grant writing and business plan development, sustainability training, and coordination of an annual tourism grantee meeting has been extended to all interested NHOs. The Department is committed to expanding on these economic development opportunities for the Native Hawaiian Community.

NATIVE Act Implementation

The Department has utilized Community Economic Development and Road Maintenance funds from FYs 2019–2022 to implement the NATIVE Act administered by the BIA’s Office of Indian Services (OIS) Division of Transportation and OIED to support:

- A five-year, performance-based cooperative agreement with the American Indian Alaska Native Tourism Association (AIANTA).
- Cooperative agreement with George Washington University to promote tourism to tribal locations in North Dakota and South Dakota.
- Cooperative agreement with Virginia Polytechnic Institute and Virginia Tech to foster inter-tribal tourism in Montana and Virginia.
- Grant with the Taos Community Economic Development Corporation to promote agricultural-tourism and food-based visitation.
- Grant with a Native vendor to develop visitation centered around the Navajo Nation’s sheep and woolen culture.

Moving forward, OIED will utilize NATIVE Act resources across Indian country through technical assistance and grant opportunities.

White House Council on Native American Affairs

The White House Council on Native American Affairs (WHCNA) Committee on Economic Development, Energy, and Infrastructure (Committee) over the past year has focused on improving tribal access to federal resources, including access and utilization of funding from the American Rescue Plan (ARP) and the Bipartisan Infrastructure Law (BIL). The Committee is co-led by the Departments of Commerce (DOC), Transportation (DOT), Energy (DOE), and the Small Business Administration (SBA) with membership including Departments of the Interior, Housing and Urban Development, Treasury, Health and Human Services, Labor (DOL), Environ-

mental Protection Agency (EPA), and more. The Committee meets at least once a month to coordinate, develop, and execute inter-agency efforts.

Over the past year, the Committee has supported inter-agency efforts for infrastructure that enables commerce and business, such as broadband. The Committee supported the organization of the 2021 National Tribal Broadband Summit, helped coordinate technical assistance on the Tribal Broadband Connectivity Program, and, most recently, supported the White House Tribal Broadband Briefing with Tribal leaders in February.

The Committee has also coordinated technical assistance opportunities for ARP and BIL funding by developing a central calendar of inter-agency events on the WHCNAA webpage: https://www.bia.gov/sites/bia.gov/files/assets/as-ia/opa/whcnaa/Upcoming_ARP_and_BIL_Support_Sessions_for_Tribes.pdf.

The Committee Cabinet-level leadership hosted a *Tribal Engagement Session* on January 31, with Secretary Haaland, DOT Secretary Buttigieg, DOE Secretary Granholm, EPA Administrator Regan, and DOC Deputy Secretary Graves. The Committee helped organize this virtual event for Tribal leaders for which over 1,000 people registered. The Cabinet leadership shared what economic development and infrastructure-related resources were available and heard recommendations from Tribal leaders.

The Committee also supported the 2021 White House Tribal Nations Summit in November 2021, which featured two panels focusing on economic development and infrastructure resources. These panels had Tribal leaders and SBA Administrator Guzman, DOL Secretary Walsh, DOE Secretary Granholm, and DOT Secretary Buttigieg.

Joint Secretarial Order 3403

On November 15, 2021, Secretary Haaland and Secretary of Agriculture Vilsack issued Secretarial Order 3403: *Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters*. This Secretarial Order recognizes that federal lands were previously owned and managed by Indian Tribes and that these lands and waters contain cultural and natural resources of significance and value to Indian tribes and their citizens, including, sacred religious sites, burial sites, wildlife, and sources of Indigenous foods and medicines. In addition, many of those federal lands and waters lie within areas where Indian tribes have the reserved right to hunt, fish, gather, and pray pursuant to ratified treaties and agreements with the United States.

The Department recognizes and values tribes' traditional ecological knowledge of the lands the Department administers. Our collaboration with tribes, through co-stewardship and the incorporation of tribal ecological knowledge into federal management practices, strengthens the management of the nation's public lands.

Co-stewardship agreements also strengthen tribal economies through providing opportunities for more robust tribal tourism and land management. The Department is looking to implement the Secretarial Order in several ways including a full range of co-stewardship agreements, inclusive of but not limited to formal co-management.

Supporting Native Communities

The Biden Administration has prioritized bringing vital resources to American Indian, Alaska Native, and Native Hawaiian communities through the BIL.

The BIL provides:

- \$466 million investment in tribal climate resilience and infrastructure, including: \$216 million to address the effects of climate change and \$250 million for irrigation and power, safety of dams, water sanitation and other construction;
- \$2.5 billion to help the Department fulfill settlements of Indian water rights claims;
- \$16 billion to address legacy pollution, including \$150 million in Tribal grants to plug and remediate orphan oil and gas wells; and
- authorizes \$270 million over five years for the BIA road maintenance program.

The Department held consultations with tribes on BIL funding in January and we are working to ensure this funding gets out to Indian country as soon as possible.

Conclusion

This Administration is firmly committed to working with Tribal governments to meaningfully support economic development for American Indians, Alaska Natives, and Native Hawaiians. Thank you for the opportunity to provide the Department's views on these important issues.

The CHAIRMAN. Thank you very much.
Ms. Simms Hipp, please proceed.

**STATEMENT OF JANIE SIMMS HIPP, GENERAL COUNSEL, U.S.
DEPARTMENT OF AGRICULTURE**

Ms. SIMMS HIPP. Thank you, Mr. Chairman. It is wonderful to be here with you today. I hope we have lots of time to cover lots of different topic areas.

You do already have my written testimony. I am not going to read it to you today. I am sure everyone will be relieved by that.

I did want to hit on a few points that I think are really important in terms of what the United States Department of Agriculture can bring to this discussion today.

Some of you may not know, but we have many, many mission areas within the Department of Agriculture. We have so many programs that are of assistance to tribes, to tribal governments, to Native people. I am here to talk about as many of those today as you wish.

I did want to bring out a few things that are important, I think, in our written testimony today for this hearing. One is food security. Food security, as we know, is a challenge within many Native communities. USDA has an entire portfolio that focuses on issues related to food security.

Rural development, our infrastructure programs, are critical to tribal governments. Our supply chain and capacity building efforts that we are undertaking right now in this Administration to really address some of the supply chain rigidity and weaknesses that we saw during the pandemic, and we are heavily involved in pushing forward in those areas across multiple mission areas and multiple agencies in the Department.

But we are also taking a hard, hard look at every single one of our authorities and our programs. My office, the Office of General Counsel, is deeply involved within even our General Counsel lawyers across the Department to literally reexamine all of our authorities and determine where the barriers are for tribes, for tribal governments, for Native Corporations, for tribal entities. That is already underway. We have already reconfigured ourselves within the Office of General Counsel.

We have a new Indian Law Working Group that is literally dissecting every single program that we have. Our job is to find barriers to participation. If we can fix them within the Department, we will do so. Some of those barriers may need your help. And we will be sure to reach out and we will remain available to all of your staff to talk through those issues as we uncover them.

We are committed within the Department to take on a new set of eyes to all of our programs, to really think about USDA's programs from the concept and from the eyes of indigenous people. That is already underway.

Tribal coordination and consultation, our Office of Tribal Relations has been reconstituted within the Office of the Secretary. Those consultations are happening at a rapid pace. We have a multi-day consultation around all of our programs that is going to take place over an entire week in the early part of April.

But I will tell you, we are also reaching out to people in other departments. Wizipan can tell you, we already have a nice coordination effort going on between my Office of General Counsel at USDA and the Solicitor's Office at the Department of Interior so that we can work together. Because what we have found at USDA is that particularly around issues such as Native agriculture, we must do these things in coordination with them. We cannot fix everything that Native agriculturists need us to fix alone. We must do it in an interdepartmental coordination effort.

I want to just briefly touch on traditional ecological knowledge, indigenous knowledge. We are also taking a look at all of our authorities to determine where and when those kinds of knowledge, ways of knowing, can be incorporated into our programs. I can share a little bit of information about that with you as we move along.

So just in conclusion, we are looking for barriers, we are looking to establish new ways of thinking and doing at USDA. We are looking to strengthen and enforce and really give life to self-determination, and look at our entire portfolio at USDA through the indigenous perspective.

I will look forward to all sorts of questions from you and we will keep moving. Thank you.

[The prepared statement of Ms. Simms Hipp follows:]

PREPARED STATEMENT OF JANIE SIMMS HIPPI, GENERAL COUNSEL, U.S. DEPARTMENT OF AGRICULTURE

Chairman Schatz, Vice Chair Murkowski, and Members of the Committee, thank you for the opportunity to come before you today to discuss the state of economic development in Indian Country and the role that the United States Department of Agriculture (USDA) plays in supporting Tribal Nations, Alaska Natives and Native Hawaiians. I come to you as the first Chickasaw woman to serve as General Counsel of USDA, a Senate-confirmed position.

The USDA plays a central role in supporting food security, rural infrastructure, and agricultural and forestry industries across the nation. USDA has deep roots in rural communities—with hundreds of local offices across the most rural parts of America and a presence in more than seventy countries around the world.

Yet, the Department of Agriculture has a long, complicated history with food, agriculture, and outreach in Indian Country. We acknowledge that we have not always listened to indigenous perspectives. I am grateful to be testifying before the Senate Committee on Indian Affairs, which will be an invaluable partner in our efforts to rebuild trusted relationships with Tribal Nations and enhance our support of Tribal economic development. Furthermore, we acknowledge that federal treaty and trust responsibilities are shared by the entire federal government, including the USDA.

Under the Biden-Harris Administration, USDA is embracing the opportunity to improve this history and truly do better. Regular, meaningful and robust consultations with Tribal leadership underscore the degree to which COVID-19 compounded supply chain interruptions and exposed deep cracks in our food systems—cracks that disproportionately affect Tribal and rural Americans. USDA heard two specific pieces of feedback—that new and expanded tools can help support Tribal Nations in their efforts to increase supply chain resiliency and that they seek food sovereignty to ensure that local production can have a local impact.

We have engaged many times with Tribal leadership in consultation on a variety of topics. Very often, those discussions have pointed to COVID-19 disruptions that have exposed numerous areas where USDA's programs and services can have new or expanded impact. Specifically, we heard and understand that food sovereignty is Tribal sovereignty. To that end, we have launched an Indigenous Food Sovereignty Initiative which is meant to aid USDA in rethinking our programs in new ways to support food sovereignty in Indian Country.

This vision requires originality and innovation in order to drive real economic development in Tribal communities. The Department is examining existing programs and new authorities to find ways to support Native seed saving, wild food foraging,

and use of traditional foods to meet nutritional needs. The Department is also working to support Native producers to identify markets inside and outside Indian Country, access USDA food procurement programs, and promote native-produced foods. Rethinking our food and agricultural programs within this context will require administrative and statutory changes to support Native agricultural producers through farm and rural development programs. We welcome the opportunity to collaborate with Congress to rethink creative ways to keep old promises.

Food Security

Lack of Tribal trust in the federal government is partially rooted in our failure to ensure that Tribes across the United States have access to enough food. More than sixty percent of counties with a majority Native population were projected to experience higher rates of hunger in 2020.¹ In a pre-pandemic study of hunger in four Tribes, the University of California Berkley found that ninety-two percent of households in the geographic region suffered from food insecurity.² USDA's feeding programs have often fallen short in addressing Tribal hunger, nor have they leveraged the knowledge of Tribal leaders to better manage programs and incorporate traditional foods.

An important way to address this problem is by connecting Tribal farmers and ranchers to feeding programs. We are grateful that in the 2018 Farm Bill Congress granted USDA the authority to operate a Food Distribution Program on Indian Reservations (FDPIR) Self-Determination Demonstration Project. This project enabled the Food and Nutrition Service to select projects from Tribes administering FDPIR and permit the Tribes to directly purchase foods for their FDPIR packages.

USDA implemented the Demonstration Project in November 2021 and disbursed \$3.5 million to eight Tribes.³ In total, seven projects were selected involving eight Tribes, and each pilot project made a Tribal or native produced purchase. The joint project between the Oneida Nation and Menominee Indian Tribe features buffalo, beef, and apples from the Oneida Tribe, wild rice from the Fond du Lac Reservation, and whitefish and lake trout from the Red Cliff Band of Lake Superior Chippewa. These projects demonstrate that when the Department has the tools to support Tribal self-determination under FDPIR, Tribes can procure food locally, drive economic growth, and improve nutrition security by way of traditional foods.

Infrastructure

Before working to expand new market access and Native product promotion, we must ensure that Tribal communities have the infrastructure they need to succeed. High-speed broadband, safe drinking water, sanitary wastewater systems and affordable access to healthcare all underpin the success of any initiatives to support economic growth in Tribal Nations. USDA is uniquely positioned to support these infrastructure needs. Rural Development operates more than forty programs—the vast majority of which are open to Tribal participation—to support rural America.

The Grants for Rural and Native Alaskan Villages program helps remote Alaskan villages provide safe, reliable drinking water and waste disposal systems for households and businesses. The most recent round of ReConnect funding sets aside nearly a third of the funding for match-free grants for Tribes and Socially Vulnerable Communities to expand access to high-speed broadband—connecting hospitals to critical telehealth services, students to distance learning, and Tribal businesses to global markets for their products. Thanks to Congress and President Biden's transformational investments in infrastructure, we are one step closer to closing the digital divide for Tribal communities. USDA's rural development programs have not always been designed with Tribes in mind, which is why the Biden-Harris Administration is working to address barriers for Tribal communities and support the critical infrastructure that is required to foster meaningful economic growth.

Supply Chain & Capacity Building

COVID-19 exposed serious risks in the United States' food supply chain—it is rigid, consolidated, and unable to adapt to quickly changing circumstances. These issues run much deeper in Tribal, Native Alaskan and Native Hawaiian communities. USDA published *USDA Agri-Food Supply Chain Assessment: Program and Policy Options for Strengthening Resilience*,⁴ which documents broadscale supply

¹ <https://www.feedingamerica.org/hunger-in-america/native-american>

² <https://nifa.usda.gov/announcement/video-games-offer-clues-help-curb-animal-disease-outbreaks-farmer-swine-wearing-white>

³ <https://www.fns.usda.gov/news-item/fns-0010.21>

⁴ <https://www.ams.usda.gov/sites/default/files/media/USDAAgriFoodSupplyChainReport.pdf>

chain issues following COVID-19, including across Indian Country, and recommendations to addressing these problems.

Moreover, when considering policies to support economic development in Indian Country, expanding Tribal processing capacity presents new opportunities for producers to grow, process, and trade food locally, regionally and internationally. This work has additional meaning in Tribal communities, where agricultural economies have long been tied to traditional livestock and seafood management and production. Recognizing the unique position Tribes can hold in the expanding protein processing capacity, USDA recently hosted a Tribal consultation and listening session for Creating a Tribal Action Plan for Fairer Meat, Processing, and Seafood Processing, where over 200 Tribal Leaders and specialists across Indian Country shared their insights.

Meat and poultry processing also presents a significant opportunity for economic development in Indian Country. We are hearing remarkable interest from Tribes in expanding processing capacity for livestock, poultry, and seafood. USDA is working to support this interest across the nation, but also specifically in Tribal communities.

In January, the Department announced \$1 billion in grants and other support from the American Rescue Plan to expand meat and poultry processing options, strengthen the food supply chain, and create jobs and economic opportunities in rural areas, including Tribal communities. USDA Rural Development will make available grants through the Meat and Poultry Processing Expansion Program to fund startup and expansion activities in the meat and poultry processing sector. USDA is also deploying the new Food Supply Chain Guaranteed Loan Program to back private investment in processing and food supply infrastructure that will strengthen the food supply chain.

Tribal ranchers and processors have seen the value and the opportunities they work so hard to create move away from the communities where they live and operate, and this Administration is committed to making investments to support economic systems where the wealth created in rural and Tribal areas stays in those areas. USDA's vision of a food system is one that ensures producers receive a fair share of the food dollar, particularly in Tribal Nations, Native Alaskan and Native Hawaiian communities.

Procurement & Native Product Promotion

As USDA works to expand processing capacity in Tribal communities and Native agricultural producers continue to expand their presence in food production, we continue to seek out ways to expand new markets for these producers. We are hearing Tribes express interest in producing and selling foods to be distributed and marketed domestically and internationally.

USDA's Agricultural Marketing Service works closely with the Food and Nutrition Service's Food Distribution Division to determine what products to make available through FDPIR, and participates in regular Tribal Leaders Consultations with FNS. As part of the effort to purchase traditional foods, AMS has partnered with FNS and FDPIR representatives to purchase bison and blue cornmeal beginning in 2015, wild salmon filets and wild rice beginning in 2016, catfish filets beginning in 2018, beef beginning in 2018, and walleye filets beginning in 2021.

At the White House Tribal Nations Summit, USDA announced a new venture with the Intertribal Agriculture Council to offer technical assistance, training, and agricultural development opportunities for Tribal Nations and Tribal producers to grow their domestic marketing opportunities. Under the Department's Indigenous Food Sovereignty Initiative, the Office of Tribal Relations is working with the IAC American Indian Foods⁵ program to certify at least ten new Native food enterprises as Agricultural Marketing Service vendors, which will enable them to bid in procurement solicitations to provide food across USDA feeding programs.

Since 2015, USDA's Foreign Agriculture Service and the Intertribal Agriculture Council partnered through the Market Access Program, awarding \$6.1 million in promotion funding for \$183 million in products exported. In 2020, Red Lake Nation Foods exhibited at Gulfood Show in Dubai at IAC's American Indian Foods pavilion which resulted in first-time export sales. New markets for Native producers and processors allow them to bring business back home and keep resources in their communities.

Tribal Collaboration & Federal Coordination

At USDA, we acknowledge we have not done enough to provide Tribal producers, businesses, families, and communities access to the tools that can ensure economic

⁵<https://www.indianag.org/americanindianfoods>

success and self-sufficiency. At the White House Tribal Nations Summit, Secretary Vilsack announced USDA's historic commitment to expanding Tribal self-determination. USDA is taking steps to internally review our statutory authorities across all agencies and programs to determine where improvements can be made in the ways we support self-determination.

As we work to level the playing field and support Tribal sovereignty through our authorities, we also know that we do our best work when we coordinate with others. USDA recently announced and held the first meeting of an Equity Commission, which was created and funded by the American Rescue Plan and is charged with evaluating USDA programs and services and recommending how we can reduce hurdles to accessing them. Our Office of Tribal Relations coordinates consultations with Tribal leaders in a manner intended to make it easier to meaningfully engage with USDA. We will continue to consult with Tribal leaders, agriculture producers, businesses and community members to discuss the important role food and agriculture and USDA can play in the economic resiliency of their communities and the broader areas that surround these communities.

We are working to improve coordination on Tribal issues across the federal government to deliver for Native communities. At the White House Tribal Nations Summit, the White House Office of Science and Technology Policy and the Council on Environmental Quality (CEQ) also released a Memorandum for the Heads of Departments and Agencies regarding the incorporation of Indigenous Traditional Ecological Knowledge,⁶ referred to as "ITEK", in federal decisionmaking. ITEK is defined as a body of observations, oral and written knowledge, practices, and beliefs that promote environmental sustainability and the responsible stewardship of natural resources through relationships between humans and environmental systems. USDA has a history of incorporating ITEK into our work. To expand our commitments, our extramural research agency (the National Institute of Food and Agriculture) incorporated ITEK as a special highlight in research grant opportunities.

The importance of coordination also extends to USDA's partnership with Congress. Tribal Nations contribute to the economic output of many states, and each of you knows your constituents well. We rely on your input and feedback in our effort to build trusted partnerships with Tribal Nations.

Conclusion

Tribal culture, economic growth, and food security are deeply rooted in agriculture, and so the Department of Agriculture shares an outsized responsibility to support our Tribal Nations, Alaska Natives and Native Hawaiians. USDA takes our responsibility seriously.

Complicated problems require complicated solutions, but USDA is eager to be a partner in driving economic growth in Native communities. It is critical that USDA support Tribes in their efforts to restore and build food and economic sovereignty, and I look forward to working with this Committee to support this mission.

The CHAIRMAN. Thank you very much.
Ms. Johns?

STATEMENT OF WAHLEAH JOHNS, DIRECTOR, OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS, U.S. DEPARTMENT OF ENERGY

Ms. JOHNS. Good afternoon, Chairman Schatz, Vice Chairman Murkowski and members of the Committee. My name is Wahleah Johns. I am a member of the Navajo Nation, or Dineh.

It is my honor and privilege to serve at the Department of Energy as the Director of the Office of Indian Energy Policy and Programs. As the Director, I am responsible for upholding our trust responsibility and advancing the Office of Indian Energy statutory responsibilities to promote tribal energy development, efficiency and use, reduce or stabilize energy costs, enhance and strengthen tribal energy and economic infrastructure, and electrify Indian homes and lands.

⁶<https://www.whitehouse.gov/wp-content/uploads/2021/11/111521-OSTP-CEQ-ITEK-Memo.pdf>

Thank you for the opportunity to testify today regarding the Office of Indian Energy's efforts on tribal energy development, technical assistance, and access to markets.

By statute, the Office of Indian Energy partners with federally recognized Indian Tribes and Alaska Native Village and Regional Corporations to develop the knowledge, skills, and resources needed to deploy clean energy solutions. The Office of Indian Energy uses a three-pronged approach to support 574 federally recognized tribes, over 200 Alaska Native Village Corporations, and 13 Alaska Regional Corporations to harness their vast and undeveloped resources through, one, financial assistance, two, technical assistance, and three, education and outreach.

Today, I will focus on the financial and technical assistance and the role that they play relative to accessing markets. Since 2010, the Office of Indian Energy has invested over \$114 million in more than 200 tribal energy projects, resulting in more than 43 megawatts of new generation, more than 10 megawatt hours of new battery storage, providing electricity for over 8,600 tribal buildings across the Nation. These investments have saved over \$13.7 million annually, and are estimated to save over \$295 million over the lifetime of these systems, resulting in \$3.46 saved for every DOE dollar invested.

Additionally, for large scale projects, the Tribal Energy Loan Guarantee Program under DOE's loan programs office is authorized to provide up to \$2 billion total in partial loan guarantees to support economic opportunities for American Indian and Alaska Native communities through energy development projects.

The Office of Indian Energy also provides federally recognized Indian tribes and Alaska Native regional and village corporations, tribal energy development organization, and other organized tribal groups and communities with technical assistance to advance tribal energy projects. This technical assistance is provided at no cost by the technical experts from DOE's Office of Indian Energy, DOE's national laboratories, and other partnering organizations.

Since 2010, the Office of Indian Energy has responded to 397 technical assistance requests in 32 States. These types of technical assistance are generally categorized into three areas: one, technical analysis; two, financial analysis; and three, strategic energy planning, each catering to the specific needs of the community.

A host of factors contribute to potential challenges for Indian tribes and Alaska Native regional and village Corporations in accessing energy markets, including existing energy infrastructure, transmission, and funding and financing. The Office of Indian Energy works to support, develop, and strengthen the capacity that is needed to enter into energy markets.

For many of these communities, financing and funding projects is particularly challenging. But the solution is not uniform. American Indian and Alaska Native communities each have varying human and financial capacities for energy development.

As such, the Office of Indian Energy strives to provide services to meet the diverse needs of these communities, regardless of financial situation, geographic location or demographic circumstances.

In conclusion, many Native people today live without electricity, energy that is essential to provide Native people with light for their children to study by, refrigeration to keep food and medicine cold, heat to warm them, and energy to help their communities grow. These realities and unmet needs are not congruent with the vast untapped energy resources that exist on Native lands.

Annually and cumulatively, there is a growing unmet need for project grant funding and technical expertise to address the wide range of challenges to energy development in these communities. There is a stark increase in education needs and outreach participation and the need for building internal capacity.

On behalf of the Office of Indian Energy, I thank you again for this opportunity to testify before you today, and appreciate the ongoing bipartisan support for the development of energy resources in Native communities.

Thank you.

[The prepared statement of Ms. Johns follows:]

PREPARED STATEMENT OF WAHLEAH JOHNS, DIRECTOR, OFFICE OF INDIAN ENERGY
POLICY AND PROGRAMS, U.S. DEPARTMENT OF ENERGY

Good afternoon, Chairman Schatz, Vice Chairman Murkowski and Members of the Committee. My name is Wahleah Johns, a member of the Navajo Nation or Diné. It is my honor and privilege to serve at the Department of Energy (DOE or the Department), as the Director of the Office of Indian Energy Policy and Programs (Office of Indian Energy). As Director, I am responsible for upholding our trust responsibilities and advancing the Office of Indian Energy's statutory responsibilities to promote tribal energy development, efficiency, and use, reduce or stabilize energy costs, enhance and strengthen tribal energy and economic infrastructure, and electrify Indian lands and homes.

Thank you for the opportunity to testify today regarding tribal energy development, technical assistance, and access to markets. I am pleased to be able to highlight the work that the Office of Indian Energy carries out related to these issues and how the Administration's goals will strengthen these initiatives.

The Office of Indian Energy's Mission

By statute, the Office of Indian Energy partners with federally recognized Indian tribes and Alaska Native Village and Regional Corporations to develop the knowledge, skills, and resources needed to deploy clean energy solutions. The Office of Indian Energy uses a three-pronged approach to support 574 federally recognized tribes, over 200 Alaska Native Village Corporations, and 13 Alaska Native Regional Corporations, harness their vast and undeveloped resources through: (1) financial assistance; (2) technical assistance; and, (3) education and capacity building. Today, I will focus on financial assistance, technical assistance, and the role they play relative to accessing markets.

Financial Assistance

Since 2010, the Office of Indian Energy has invested over \$114 million in more than 200 tribal energy projects. While these projects include energy planning, feasibility studies, and project development, the Office of Indian Energy emphasizes tribal energy deployment projects, projects that install hardware, and which make an immediate and tangible impact in Native communities.

Specifically, those deployment project investments have resulted in more than 43 MW of new generation, and more than 10 MWh of new battery storage, providing electricity to over 8,600 tribal buildings across the Nation. These investments have saved over \$13.7 million annually and are estimated to save over \$295 million over the life of these systems, resulting in \$3.46 saved for every DOE dollar invested.

Additionally, for larger scale projects, the Tribal Energy Loan Guarantee Program (TELGP) under DOE's Loan Programs Office is authorized to provide up to \$2 billion total in partial loan guarantees to support economic opportunities for American Indian and Alaska Native communities through energy development projects.

Technical Assistance

The Office of Indian Energy also provides federally recognized Indian tribes and Alaska Native Regional and Villages Corporations, tribal energy development organizations, and other organized tribal groups and communities, with technical assistance to advance tribal energy projects. This technical assistance is provided at no cost by the technical experts from DOE's Office of Indian Energy, DOE's national laboratories, and other partnering organizations.

The goal of this technical assistance is to address a specific challenge or fulfill a need that is essential to a specific project's successful implementation. The intended result is a tangible product or specific deliverable designed to help move a project forward.

Since 2010, the Office of Indian Energy has responded to 397 technical assistance requests in 32 States. The types of technical assistance are generally categorized into three areas: 1) technical analysis; 2) financial analysis; and, 3) strategic energy planning, with each catering to the specific needs of the community.

Access to markets

A host of factors contribute to potential challenges for Indian tribes and Alaska Native Regional and Village Corporations in accessing energy markets, including existing energy infrastructure, transmission, and funding and financing. The Office of Indian Energy works to support, develop, and strengthen the capacity that is needed to enter into energy markets. Working with these communities to support their energy visions, it is clear that many challenges exist particularly related to financing and funding projects.

Addressing these challenges is not uniform among communities. American Indian and Alaska Native communities each have varying human and financial capacities for energy development. As such, the Office of Indian Energy strives to provide services to meet the diverse needs of these communities, regardless of financial situation, geographic location or demographic circumstances. For example, strategic energy planning assistance is often a way communities engage with our office. Knowing the financial, technical, and legal ramifications can be critical for a community that is considering energy development. Other communities may be considering large scale energy development and have more specific requests from our network of experts.

Further, the newly signed Infrastructure Investment and Jobs Act (IIJA also known as the Bipartisan Infrastructure Law) will better position DOE to address the climate and environmental needs of the American people. The Bipartisan Infrastructure Law makes a historic investment in infrastructure -more than \$62 billion for DOE to deliver a more equitable clean energy future -which will help correct the unacceptable fact that many in Indian Country still don't have access to reliable, affordable electricity. For example, funds were made available specifically to Indian tribes for energy efficiency and conservation and preventing outages and enhancing resilience of the electric grid. Lastly, this historic investment in supply chains and clean energy demonstration projects will create jobs and economic opportunity for all Americans, including American Indian and Alaska Native communities.

The Administration and DOE's push to promote zero carbon projects to combat the climate crisis will create new investment, new jobs and stronger communities, and we're making sure that American Indian and Alaska Native communities are in the forefront of this effort.

This is why the Office of Indian Energy is investing in clean energy projects Native communities, projects that create jobs and boost energy independence and resilience.

Conclusion

In conclusion, many Native people today still live without electricity, or are dependent on fossil fuels for their energy needs—energy that is essential to provide Native people with light for their children to study by, refrigeration to keep food and medicine cold, heat to keep them warm, and energy to help their communities grow.

These realities and unmet needs are not congruent with the vast untapped energy resources that exist on Native lands. Tellingly, American Indian and Alaska Native communities' interest and action in developing these resources have increased in recent decades. Like many communities in the United States, Native communities are working towards strengthening their economies and increasing their well-being and energy development is a foundational element to achieving these goals.

We know the demand is there. DOE's Office of Indian Energy's investments continue to be utilized by American Indian and Alaska Native communities. Annually and cumulatively, there is growing unmet need for project grant funding and tech-

nical expertise to address the wide range of challenges to energy development in these communities. There is also a stark increase in education needs and outreach participation and the need for building internal capacity.

The Office of Indian Energy's initiatives are guided by statute and informed by tribal input, that is so essential to building and maintaining Nation-to-Nation relationships. Feedback is received through consultation, listening sessions, workshops, research, from this Committee, and recommendations from the Indian Country Energy and Infrastructure Working Group (ICEIWG). This feedback is vital to ensuring that the direction of the DOE Office of Indian Energy addresses the present day needs and realities of American Indian and Alaska Native communities. Therefore, the Office of Indian Energy must be receptive, adaptive, and forward thinking to best prepare to meet the evolving needs of these communities.

We want to create more opportunity for dialogue about how Indian tribes, Alaska Native Corporations, and Native communities can lead the way to a clean, secure, and reliable energy future. We are striving to ensure that matters associated with broadband, transportation, water and energy in American Indian and Alaska Native communities are also highlighted and addressed.

On behalf of DOE's Office of Indian Energy, thank you again for the opportunity to testify before you today. I appreciate the ongoing bipartisan support for the development of energy resources in Native communities.

I welcome your questions.

The CHAIRMAN. Thank you to all of the witnesses. I will now turn to the Vice Chair for an opening statement, followed by her questions.

**STATEMENT OF HON. LISA MURKOWSKI,
U.S. SENATOR FROM ALASKA**

Senator MURKOWSKI. Thank you, Mr. Chairman. I apologize for being a few minutes late.

Before I begin my opening and then go into the questions, I just want to acknowledge that today has been a pretty good day in terms of advancing good legislation for Native people everywhere, particularly our vulnerable women and children. With the ceremony that was at the White House today that you and I were able to be at with our staffs, I think it is a recognition of the good work from this Committee that this tribal title was a significant part of VAWA.

I want to give public credit to your team, led by Jennifer, and to our team, led by Amber and Lucy, working on the VAWA side. It was significant, and again, worthy of celebration. Thank you for that.

The CHAIRMAN. Thank you very much, Vice Chair. I said something similar, not as eloquently, earlier. But I will just note that in that room, the thing that caused the whole crowd to erupt and goose bumps up and down my spine and neck was when President Biden talked about the provisions that we all collectively authored. And I mean that in the most collective sense. This was a real accomplishment for Native people across the Country. You could feel it in that room. So thank you for your leadership as well.

Senator MURKOWSKI. No, a good team partnership. Thank you.

So this is a good hearing, also. This is more opportunity to focus on some of the progress that has been made, looking at the state of Native economies, what we can do to support buying Native American. I think we have seen some good economic growth in the last few decades. I am very proud, particularly in Alaska, of the progress that some of our tribal entrepreneurs and Alaska Native

Corporation leaders have made in growing not only Alaska's economy but the American economy.

In Alaska, nine of the top ten companies are ANCs, Alaska Native Corporations. They have succeeded economically while still upholding Native values, which is absolutely key.

But I think we know that this economic prosperity is not even across Indian Country. There are still many barriers, and the opportunity for us to discuss those barriers and figure out how we move beyond them is why we are here. But the barriers are everything from lack of access to capital, supporting infrastructure, and markets. In order to see continued economic improvements in Native communities, the role that we have here is to step up and work with Native businesses to break down the barriers.

So I think this hearing is particularly timely, given that the omnibus was just signed yesterday, the Bipartisan Infrastructure bill was just recently signed by the President. We had our Energy Act of 2020 that is now law. All of these are significant pieces in supporting sustainable tribal economic development and growing Native businesses.

So we are looking forward to many of the advantages that we are going to be seeing from the Infrastructure Bill, whether it is the broadband, the water and wastewater, there is just so much there.

But I think as we are learning, passing the law is the first step, it is the implementation and making sure that American Indian, Alaska Native, Native Hawaiian businesses and communities are treated as partners as we move forward is going to be important. So I am glad that we have the Administration witnesses with us today. I hope that you will have an opportunity to hear from those who are part of the second panel, again, for their input.

Just before I turn to my questions, let me make a little bit of a comment about energy. According to the Energy Information Agency, rural residents and villages in Alaska pay exponentially higher rates for electricity, with some rates reaching over \$1 a kilowatt hour, or about 800 percent higher than the national average.

I will share with you, there is a great deal of concern right now in many, many, many of the villages around the State of Alaska. Their fuel supplies come twice a year. They come by barge. They come with a spring barge, and they come with a fall barge. So the prices are set when that fuel is purchased at that point in the season.

Right now, the villages haven't been impacted by the increasing price of fuel. It has with the cost of goods and airplane travel, but it hasn't translated to what they are paying when they go to get fuel for their snow machine, four-wheeler, and soon to be boats. But when that spring barge comes, they are locking in fuel at the prices that we are seeing today, which we all know are just gut-wrenching.

So the prices that I am speaking to, the rates that people are paying per kilowatt hour, you add on that the now higher price of fuel, and even if things should settle down, they are still locked into that fuel until the next barge comes. So that is the reality of so many of the communities in rural Alaska.

We do have some great news stories, though, and we are going to be able to hear from Gary Hennigh on the second panel out of

King Cove. King Cove actually has had good news today, because we got some good news out of the Ninth Circuit today, which is great. Gary is going to talk to us about the community's hydro-electric projects that have enabled this primarily Aleut community to bring their energy costs down, to largely get off diesel. We are all looking for ways to reduce our emissions, deal with climate change. Well, you have to get off diesel power generation first.

So it is innovations and initiatives like the projects that we are seeing in King Cove that recognize the importance of valuing a local community's input in the planning and the administration of their natural resources. I think King Cove serves as a great example to our Federal witnesses of the important role that local input plays in decisions regarding involving natural resource management and enabling the communities to implement their own energy visions.

Senator MURKOWSKI. Ms. Johns, let me stick with you for just a moment here, since I am talking about energy. We have mentioned that we were able to amend the Energy Policy Act Loan Guarantee Program as part of the omnibus to eliminate this barrier to its use, allow applicants to receive direct funding from the Federal Financing Bank and Treasury. This should hopefully open up capital, lower interest rates for energy projects. People are looking forward to that.

But where there is a concern is, all right, you have this big bureaucracy back here in Washington, D.C. You say you have removed these barriers. Can you tell me how or if your office works with DOE's loan programs to ensure that tribal producers that are interested in developing energy on their lands don't get lost in this kind of back and forth departmental shuffle?

Ms. JOHNS. Thank you for your question, Senator Murkowski. It is a great question, because with LPO, our Loan Programs Office at Department of Energy, we work closely on coordinating efforts with tribes and doing outreach. Our office has a lot of connections with tribes.

I am excited about this new language in the bill that will allow direct loans for tribes to apply for. We have identified the barriers, we held a listening session last May, both LPO and our office, around some of the challenges that Indian tribes are facing, but also ANCs. This could unlock a lot of potential.

Senator MURKOWSKI. Are you working with the DOE Loan Program as well?

Ms. JOHNS. Yes.

Senator MURKOWSKI. Okay, good.

Let me turn to you, Ms. Simms Hipp. I appreciate your comments about the food security initiatives. A couple of questions for you. The 2018 Farm Bill extends 638 contracting authority under ISDEA to USDA through a couple of demonstration projects. The Alaska Native Tribal Health Consortium was selected as one of the participants for this pilot, which we think is great.

The first thing that they did was to replace farm-raised catfish. We don't grow catfish. We don't raise catfish in Alaska. The catfish was flown to Alaska from across the Country and placed as part of these food baskets, food packages, if you will. So the first thing, that is crazy. We have some of the best fish here. So what they did

is they replaced it with Alaskan halibut that is harvested and processed by Sun'aq Tribal Enterprise. Fabulous. Makes total sense.

What doesn't make total sense is we are told that ANTHC is only authorized to supplant items within the food packages. So what they have said to us is if they have more authority to include in these food packages things that make sense from within the region, they can select more goods, Alaskan goods from tribal vendors.

So is this accurate, that they don't have the flexibility to really make these food packages not only more local, support the local vendors? But also, for heaven's sake, if we are worried about emissions, why are we flying catfish from somewhere in the south to people who have some of the finest wild sources of protein in the world?

Can you tell me, if we do have some flexibility, and if we don't, what more we can do to get it?

Ms. SIMMS HIPP. I am very happy that you brought that program up. It is one of, I believe one of the most important things that this Committee was able to influence in the last Farm Bill. The 638 authority that was pushed into the Food and Nutrition Service, with regard to the food distribution program that you mentioned, has been able to actually put funding toward all of the projects that applied for the funding at the tribal level. All eight were funded.

What we are seeing now is exactly what you pointed out. We are seeing the places where we can be informed by exactly the foods that are around the tribes that are actually using that program and how it can inform the changes that we can make internally that would adjust for them.

Senator MURKOWSKI. So do you think you have the flexibility?

Ms. SIMMS HIPP. I believe that we have some flexibility. But I believe it to be a very complicated flexibility.

Senator MURKOWSKI. Would you just commit to work with us on this?

Ms. SIMMS HIPP. Yes.

Senator MURKOWSKI. We want to make it work. But it doesn't make sense if what we are trying to do is build up tribal empowerment here, help local economies deal with food security, and oh, by the way, reduce our emissions. It seems to me that we just need to be communicating a little bit better. I would like to think that you would be willing to work with us on that.

Ms. SIMMS HIPP. Absolutely.

Senator MURKOWSKI. Mr. Chairman, I know we have limited time. I have more questions, but let's turn back over to you, please.

The CHAIRMAN. Thank you, Vice Chair.

Just before I get started, to put a fine point on it, you are going to fix this, aren't you?

Ms. SIMMS HIPP. I am going to do my best.

The CHAIRMAN. All right, that is good enough for me.

Mr. Garriott, Native businesses across several industries cite BIA's agricultural leasing issues, limits on duration and highest bidder requirements, as impediments. I understand you are working on updating regulations. What are you doing? What is the status here? I have about seven questions I want to do in five minutes, just for context.

Mr. GARRIOTT. I will be quick. First, we understand and have heard many times that there are a number of impediments, barriers, in the ag leasing area. We have not started the process to begin amending those regulations. It is something that we want to do, though.

It is important to understand that we are also looking, under the current regs, we are also looking at current barriers. For example, on ag leasing, we or a tribe can go up to 10 years with our ag leasing. However, written into the law, it requires us to do a reassessment or a reevaluation of the value of that land at the five-year mark. There are some internal barriers to that with around appraisals and land valuation. That is something we are committed to looking at and to addressing in the short term while we take a longer term, and when I am talking longer term, I am talking within the next year, at looking at our Indian ag leases.

One of the really exciting developments that is really important and a tool for tribes is the HEARTH Act, which allows and recognizes tribes to develop and set their own leasing regulations, including ag leasing. So the more tribes that are able to take control over their own regulatory powers the more they will be able to streamline ag leases and many other kinds of leases.

The CHAIRMAN. That is great. So it sounds like some of this may be through a rulemaking, some of it, maybe you have some internal flexibility, and then I presume some of it may be statutory. But let's work it all out and come up with a plan going forward to get you the flexibility you need. Then for the Department also to show flexibility.

Mr. GARRIOTT. Yes.

The CHAIRMAN. Ms. Simms Hipp, on 638, how scalable is the program? Can we make this work on a broader basis?

Ms. SIMMS HIP. I think the limitations on scalability at this point are limitations on budget.

The CHAIRMAN. It is money.

Ms. SIMMS HIP. It is money.

The CHAIRMAN. It is scalable with money?

Ms. SIMMS HIP. It is scalable.

The CHAIRMAN. It is not without it. Fair enough.

Ms. Johns, just for the record, how many people in Indian Country lack electricity?

Ms. JOHNS. Right now, we are doing a study that is on energy access and reliability. It is a Congressional report that will be made available by this summer. It is estimated 20,000 to 30,000 Native American homes do not have access to electricity today.

The CHAIRMAN. Thank you. That is an abomination. That is something that we collectively have to fix over time.

Mr. Garriott, tribes note that energy development projects are often delayed because they need secretarial approval for rights of way. Do you have enough autonomy, do you have enough statutory authority to fix that? Or do we need a new law?

Mr. GARRIOTT. One of the things we have heard from tribes and from others is that expanded recognition of tribal authority within the HEARTH Act would go a long way. Right now that includes leases, but does not include rights-of-way.

The CHAIRMAN. And it is extraordinarily difficult to do an energy project without right-of-way.

Mr. GARRIOTT. Yes. Very. One of the things I would highlight, though, is again, today we did announce the first tribal energy development organization categorization, which allows an entity that is majority owned by a tribe to work directly with a tribe. And then the tribe has the authority to expedite leases and rights-of-way.

So it is an additional authority that we are utilizing right now within our current law. But again, getting back to the first part of the question, expanded authority would be helpful to many tribes.

The CHAIRMAN. A final question before Senator Hoeven. DOE has a policy establishing a purchasing preference for tribal energy. Ms. Johns, is that policy being implemented?

Ms. JOHNS. Not that I know of, it is not.

The CHAIRMAN. Thank you.

Senator Hoeven?

**STATEMENT OF HON. JOHN HOEVEN,
U.S. SENATOR FROM NORTH DAKOTA**

Senator HOEVEN. Thank you, Mr. Chairman.

Mr. Garriott, last Congress, I sponsored legislation, the Indian Community Economic Enhancement Act. The idea was to get better coordination between Interior, Commerce, and Treasury. Can you give me an update on implementation of that legislation?

Mr. GARRIOTT. Absolutely, and thank you for the question. With regard to the provisions generally, it had a lot to do with Commerce, and I am unable to speak directly to the activities of Commerce. However, with regard to the requirements, activities under Department of Interior, I believe that we are fulfilling those.

One, the Act requires us to coordinate with the Department of Health and Human Services around, it doesn't explicitly call it the Buy Indian Act acquisitions, but basically it directs us to look at ways to purchase goods and services and to work with tribal businesses. We do that, we have regular communication around implementation of the Buy Indian Act. It is also something that, also within the Enhancement Act, it asks us to do consultation in a number of areas. We are hoping, planning to release our updated Buy Indian Act regs by the end of the spring. In order to develop those, we engaged in consultation on the development of those.

Also, there are certain provisions around financing. The Indian Loan Guarantee Program administered by the Office of Indian Economic Development also has engaged in consultations in the last several years on how to improve its programs and services to help drive more capital to Indian Country. As a result of that, we have begun to take certain steps to help improve our program.

Finally, there is a lot of interagency coordination that happens, not only amongst our agencies represented here, but across the entire Federal Government, which includes Commerce and HHS and SBA and others, around interagency coordination with regard to Native American policy.

The White House Council on Native Americans is chaired by the Secretary and co-chaired by the Director of White House DPC, and is kind of split up into a number of different kind of subgroups, one of which is economic development and infrastructure. Through that

committee, we meet on a monthly basis to coordinate and share information about how we can improve awareness of our various programs and resources, address issues of access, are there barriers that we need to be looking at, either internally or across the Federal Government, and then finally starting to take a look at utilization, who is using this, how can we improve it, and those kinds of questions.

Senator HOEVEN. Thank you.

Ms. Simms Hipp, in the Farm Bill, we included a tribal self-determination procurement demonstration project. Can you update me on the status of that, about getting traditional foods involved?

Ms. SIMMS HIPP. Yes, sir. We have implemented that provision in the food distribution program. I think the Vice Chairwoman mentioned that as well in her question.

Senator HOEVEN. She did. Surprisingly, she mentioned Alaska fish. That doesn't happen very often.

[Laughter.]

Senator HOEVEN. Or maybe it does.

Ms. SIMMS HIPP. Well, all eight applicants for the program were all funded. And they all have it underway.

Senator HOEVEN. It really is a good idea.

Ms. SIMMS HIPP. Yes.

Senator HOEVEN. We just need to keep promoting it, Alaska salmon and halibut, and all the great fish there. That is a great example. We can go around the Country.

Ms. SIMMS HIPP. Exactly.

Senator HOEVEN. Anything and everything you do, that is just a really good concept, I think. I am very supportive of it.

Then Ms. Johns, we also passed another bill. I sponsored the Indian Tribal Energy Development Self-Determination Act, to try to give tribes a boost in terms of developing energy resources they want to on their reservation. Do you want to give me an update on that?

Ms. JOHNS. Yes. Our statute has been supporting, at the request of tribes, technical assistance, financial assistance. We offer financial assistance opportunities. So really supporting their energy needs. This is part of our trust responsibility to tribes and Alaska Native Villages Corporations.

So we do have a strong commitment to supporting tribes to be self-reliant in their energy generation, to be able to look at the opportunity to sell power and electricity. So anywhere from strategic energy planning to technical assistance and support. We have a good team that is working really hard to make sure that we support tribes to get to a place of self-reliance and self-determination. Also really it is a big part of our mission, supporting tribes.

Senator HOEVEN. Good. Thank you. Thanks to all three of you.

The CHAIRMAN. Senator Cortez Masto.

**STATEMENT OF HON. CATHERINE CORTEZ MASTO,
U.S. SENATOR FROM NEVADA**

Senator CORTEZ MASTO. Thank you, Mr. Chairman. Thank you to the Ranking Member. I so appreciate this panel discussion today.

Ms. Johns, let me start with you and follow up on some of the questioning that I have heard. I was proud to fight for changes in the Fiscal Year 2022 appropriations bill that we just passed that provided the Tribal Energy Loan Guarantee Program with access to use direct loans through the Federal Financing Bank, which we all hope will expand access to the program, which has historically not achieved its mission.

One of the things I have heard from our tribes is about the onerous application process. Are there any changes in the pipeline to address and streamline possibly the application process for the Tribal Energy Loan Guarantee Program? Just curious if you are hearing the same concerns.

Ms. JOHNS. Yes, thank you, Senator, for that question. Since May of last year, we held a listening session, a roundtable discussion with tribal leaders around our funding opportunity that we have at the Office of Indian Energy, and also the loan program's office, Tribal Energy Loan Guarantee Program, to get input on what are the challenges and barriers.

We have been working, since May we have been working on helping to streamline the process, the application, but also the outreach and engagement is really key, and making sure that we support tribe to submit successful applications. Now that we have this new bill that has been passed yesterday, giving direct loans, being able to give direct loans to tribal projects is a game changer. I appreciate all of you that supported this effort. This is really going to be helpful for a lot of tribal projects that are out there that want to continue to grow.

Senator CORTEZ MASTO. Thank you. I appreciate that. I look forward to the good work that you are going to do on behalf of our tribes.

Let me ask you this. In the Indian Energy Grant Program, we saw a \$36 million increase this fiscal year, from Fiscal Year 2021 to Fiscal Year 2022. Does the Department have plans for this new funding? I am curious, with the additional increase here, thoughts on how you are going to address the needs of the Indian Energy Grant Program.

Ms. JOHNS. Thank you again, to the Committee, and leaders that have supported the Office of Indian Energy. With this increase, our vision is to support tribes that are in this transition moment. Taking advantage of this clean energy economy will provide jobs and many benefits. Also addressing energy access is a priority for us.

Through the Bipartisan Infrastructure Law, there is so much opportunity for tribes to be able to carry out their energy vision. We are in good coordination with all the offices and programs within the Department of Energy, but also my colleagues here in the other agencies, how does energy fit in with water, how does energy fit in with housing, agriculture, then also the rights-of-way. So there is a lot of coordination, interagency coordination, that is happening through the White House Council on Native American Affairs.

We are really excited about this opportunity to demonstrate also the unmet need that tribes have today when it comes to being able to finance these projects and fund these really amazing projects that contribute to the climate resiliency that is needed in these

really remote rural areas as well. I am looking forward to working with you. Thank you.

Senator CORTEZ MASTO. Thank you. I couldn't agree more about the need for the coordination amongst the various agencies. It is one of the reasons that I pushed for the Rural Interagency Council in the 2018 Farm Bill. We saw cooperation across the many Federal governmental agencies. I see it in my State, because we have to interact at a Federal level with all the various agencies.

So let me ask you, Ms. Simms Hipp, are you seeing more of this communication, I hope, happening across Federal agencies in order to really maximize the investments that we are making now, and making sure that our tribes and our rural communities are receiving the assistance that they need as well?

Ms. SIMMS HIPPI. I believe we are. I always believe we can do more. My colleagues here at the table hear me go on about that quite a lot.

Let me give you an example. The agricultural piece that Mr. Garriott talked about in terms of the agricultural leasing that could unlock a new way of thinking about how we support Native agriculture. We have already been in touch with his office because it is going to be very, very important for the various agencies at USDA that support agriculture production to be at the table when you are thinking about agricultural leasing. Because the crossover and the bridge between our program authorities, our loan authorities, our technical assistance authorities that sit up underneath, Native agriculturists, it is really critical that we are along for the ride from day one, and that we actually do it on concert.

So the ideas and the opportunities around interdepartmental coordination, I quite frankly have never been more excited about where we are now. Because I think we know that we must do a better job of listening to tribes, listening to Native producers, but also doing the deep coordination we need to do across these bridges. But we will see areas where you all will need to lean in to help us, in my opinion.

Let me give you an example. Several years ago—Mr. Garriott mentioned appraisals. What we found several Farm Bills ago is that we actually needed a legislative fix because we had two different appraisal systems that were required, one at the Department of Interior, one at the Department of Agriculture. We were able to, with your help, get that fixed.

So I do think that we are really at an important moment to put legs up underneath tribal governments, Indian people, all over the Country to really grab hold of this moment and build some incredible economies for their communities. But it is going to take us all being in it together and finding those places that are deep in the weeds and trying to do our best to fix them internally or be in conversation with you all to help make that happen.

The CHAIRMAN. Thank you.
Senator Smith?

**STATEMENT OF HON. TINA SMITH,
U.S. SENATOR FROM MINNESOTA**

Senator SMITH. Thank you, Chair Schatz. Thank you so much for this Committee hearing. It is quite interesting.

Chair Schatz, I need to go preside over the United States Senate in about 10 minutes. So I am going to maybe ask one question, but I am glad to be able to be a part of this.

I am going to ask a question around food sovereignty. Ms. Simms Hipp, I will direct this to you. There is significant interest amongst Minnesota around the issue of food sovereignty. That interest has motivated me to work on legislation with Senator Rounds which would allow tribes to administer the SNAP program through self-governance contracts.

So it is interesting to me how that value around this food sovereignty, how it meshes with the other value that we are talking about today, which is around Buy Native American, and how those two things can work together. Ms. Simms Hipp, I am going to ask you to talk about that a little bit. Tribes that are able to lift up their indigenous food sources benefit their members' health, their tribal economies, so many things.

Could you just talk about, tell us a little bit about how the Federal Government can bolster Buy Native American initiatives to the benefit of tribal food sovereignty and how those two things work together?

Ms. SIMMS HIPPI. Thank you, Senator. I will be very happy to do that.

One of the things you have already done, which was to actually put in place 638 authority on a demonstration level around the food distribution program. But that is to me just the beginning. Because there are so many other opportunities that we have seen within USDA where we could more tightly work with Native producers, tribal governments, to really accomplish their goals of bringing more of their products to market.

Some of those markets could actually be at USDA, because a lot of agencies, departments around the Federal Government purchase food. We purchase a lot of food, but so does the Defense Department. So do a lot of other departments. Really unpacking those opportunities is very important.

But I will tell you that USDA does not have Native preference in procurement. We do not have that authority. So unless you identify that within your own efforts, to make changes in our ability to kind of meet the moment, then we can take it internally as far as we can. But then there will be that final bridge that we will need some help to cross.

So there are many, many opportunities that tribes across the U.S., lower 48, Alaska, Native Hawaiians, have in this space of food sovereignty. But really meeting the moment of meeting the nutritional needs of their people but also really encouraging the continued presence of our traditional foods within our communities, which is terribly important. But also the agricultural-economic opportunities for diversifying Native economies across the Country in food.

We already know that \$3.5 billion annually is accounted for in Native food production. But USDA has a long history of actually understanding that that is probably an undercount. We can do more to actually unpack that and really support it more fully. We are looking at every single nook and cranny at USDA to bring that

technical assistance to bear so that tribes can actually accomplish these really important missions of food sovereignty.

Senator SMITH. I would love to help you look in every nook and cranny and help to also make sure that the USDA has all the authorities that it needs. I think this is an area where there is so much opportunity. Food is culture. Food is health. Food is economic development. To bring those things together feels to me, and I have learned from Minnesota tribes is incredibly empowering in so many ways. So this is an area that is ripe, I think, for opportunity.

Thank you, Mr. Chair.

The CHAIRMAN. Senator Daines.

**STATEMENT OF HON. STEVE DAINES,
U.S. SENATOR FROM MONTANA**

Senator DAINES. Chairman Schatz, thank you, Vice Chairman Murkowski as well, for holding this hearing on growing Native businesses. I do want to thank Lexie Holden from Billings, Montana for joining us virtually today on the second panel.

As we look around the Country, we certainly see the price of energy going up. Gas prices, heating bills increasing, straining the budgets of so many Montana families. We are in the midst of what is now becoming an energy catastrophe. It is time that we unleash made in American energy. That includes expanding Native American energy.

Across our State in Montana, we have many tribes producing energy. The CSKT, they are producing hydropower. The Crow, producing coal. Fort Peck, producing oil. All these tribes deserve the right to choose which energy portfolio works best for their people.

This is about creating a thriving community with very good, high paying jobs for tribes in Montana. Having met this past weekend, when I was back home in Montana, with one tribal president and another tribal chairman, over and over I hear the complaint, they don't want to see Washington bureaucracies and bureaucrats stifling tribal self-determination and sovereignty.

Director Johns, do you agree that tribes should decide what form of energy they produce, use, and invest in?

Ms. JOHNS. Thank you for that question. Yes, we support tribes to pursue whatever their energy needs and vision is. That has been the mission of our office and the self-determination and whatever they want to choose, we have been supportive with technical assistance and financial assistance, education and outreach.

Senator DAINES. Thank you. It seems with what is going on both in our Country and around the world that we should be looking to be additive in our thinking on energy portfolios, not necessary replacing one for the other. There are other ways to let the markets decide the choices, and let tribe decide what they want to produce.

What communications has DOE and BIA had to ensure that the government streamlines what is a very bureaucratic process to ensure that tribes can use infrastructure dollars in a timely manner?

Ms. JOHNS. That is a great question. We coordinate a lot with the Department of Interior, the Division of Energy, Minerals Division and also the service center there, and through the White House Council on Native American Affairs, we also have an MOU with them as well. Energy is one of the subcommittees. We have a bi-

weekly meeting and we have discussed how we can better collaborate and coordinate to support tribes and meeting them where they are.

Usually for our office, we offer technical assistance at no cost. So a tribe can make the request, and we will get them information that they need around a project or something to research. If it is out of our scope, we will either send it to another agency or we have lab partners that we can direct some of those requests to do a study.

So yes, we are here to help tribes in pursuing their energy vision, which is really important in understanding that tribes and Alaska Native Villages and Corporations, we have a trust responsibility to them in supporting what they would like to do. I just want to say that that is definitely something we honor.

Senator DAINES. Thank you. Thanks for the thoughtful answer.

I want to shift gears and talk about infrastructure, because we have seen in Indian Country many hurdles that have been placed on it by some of these burdensome Federal policies. If you want to see a prime example of why we need a more streamlined Federal Government, why we need a leaner Federal Government, a more efficient Federal Government, a more compassionate Federal Government, just look at our tribes.

The Federal Government has created a regulatory system so complicated that most lenders are not willing to extend credit to Native businesses. When they do it, it is at substantially higher repayment terms.

Issues of recordkeeping, unique requirements for Indian Country, make it challenging to purchase land, to lease buildings for creating new businesses, is yet another extraordinary hurdle that has to be overcome that has chilling effects with potential investors. I believe the Federal Government needs to get out of the way so tribes can seek investors and partners more quickly and efficiently to improve their infrastructure and create economic growth, which results in good jobs.

An additional major hurdle is access to basic infrastructure. Tribes need more roads, more power lines, better access to markets.

Director Johns, it would be great to have whatever energy tribes want to produce per the earlier line of questions, but if they can't get it to the grid for use, it really doesn't matter. It won't have the impact we want to see.

What is DOE doing to help facilitate upgrades and expansion of power lines in and around Indian Country?

Ms. JOHNS. Thank you for that question. Actually, personally I come from, I live next to a coal-mining operation. We live about nine miles from the nearest transmission line. So I understand the challenges of living without access to the grid. Thousands of families live this way.

It goes back to history, why is that like that. Is it cost? Is it the policy that we need? I think being in this role, and the opportunity in the Bipartisan Infrastructure Law to strengthen our grid and our transmission and also look at extension to areas in Indian Country that don't have access to power lines, and also looking at microgrids. There are communities that are so remote and rural

that in the ability to help finance something like a microgrid, a community can produce power for themselves. But also look at the market piece, can they sell power to what market.

I liked the question about the tribal power preference. That is something that I definitely want our office to look at more and work with other agencies to make it work for Indian Country. Because there are a lot of conversations in this Country around the way that the transmission is going to be potentially designed in different regions of the west and Midwest and the southeast. I do think that there needs to be a space for tribal leaders and tribes to be in those conversations. I feel like that is our role, holding up our trust responsibility to provide the tools and resources to tribes so that they can participate, make an informed decision on how they want their communities to continue economically but also just thrive like they used to in many ways, and continue to.

The community I come from, I feel our people are super-resilient, despite not having access to power, access to water, access to roads. We get by. There is this really powerful lesson I have learned around infrastructure and the need for it to get to Indian Country.

So I really appreciate all of you for passing the Bipartisan Infrastructure Law because it is going to have an impact. I have seen that already. Thank you.

Senator DAINES. Thank you, Director.

The CHAIRMAN. Senator Murkowski with a final question.

Senator MURKOWSKI. Yes, thank you, Mr. Chairman.

I have one last question for Ms. Simms Hipp. This takes it back to the 638 contracting and what we were able to include in that Farm Bill.

There is also authority to conduct forestry management activities within this Tribal Forest Protection Act. I think there is a lot of interest in this by tribes who are looking to use this new authority. But we have heard that the limited authorities that are authorized under the Act itself, under the Tribal Forest Protection Act and the narrow definition of tribal lands could prevent this demonstration project from being fully utilized.

I don't know if you are looking at these as barriers, and if you have any updates for me as to what you are doing to make sure this is something that, again, there is interest there, but let's make sure we have taken away the things that would limit the ability for participation.

Ms. SIMMS HIPPI. My office has actually already received the question. So we are already working on it with them, the Office of General Counsel, to really dissect what those limitations are that we have heard as well. We have heard it from tribal leaders, but we have also heard it within the Forest Service itself.

Senator MURKOWSKI. Okay.

Ms. SIMMS HIPPI. So we are working on that, and I would love to get with you and your staff and give you and the Committee an update on that. It is on my desk.

Senator MURKOWSKI. Let's do that, and I am going to ask all three of you as our Federal witnesses if you can respond to us in writing. Last year, in February, the President issued this executive order on America's supply chain. This is Executive Order 14017. This directs the Administration to support a resilient, diverse, se-

cure supply chain. As part of that order, it requires consultation and outreach to stakeholders.

So I would like to know what each of you and your respective agencies have done with regard to consultation with tribal governments or the relevant stakeholders, and just what level of outreach has gone on. That is something I would be happy to take in other communications.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Murkowski.

Thank you to our Federal witnesses. Thanks for the work you do. Let this be the beginning of some additional conversations. We will follow up by letter, and also with staff on the phone and by email. So thank you very much to our first panelists.

It gives me pleasure to introduce our second panel. First, we have Lexie Holden, the Associate Director of the Intertribal Agriculture Council in Billings, Montana. We also have JT Willie, the Director of the Division of Economic Development for the Navajo Nation in Window Rock, Arizona. We also have J. Kukui Maunakea-Forth, Founder and Executive Director of MA'O Organic Farms, Wai'anae, Oahu, Hawaii. And Senator Murkowski, would you like to introduce your witness?

Senator MURKOWSKI. I certainly will. Mr. Gary Hennigh is the City Administrator for the City of King Cove, it actually says on the thing Anchorage, Alaska, but he is really King Cove, as the City Administrator, and has been there for many years. I will just end by saying he is a super great guy.

The CHAIRMAN. Thank you very much.

I want to remind our witnesses that your full testimony will be made part of the official hearing record. Please keep your statements to no more than five minutes so that members have time for questions.

We will start with Ms. Holden.

STATEMENT OF LEXIE HOLDEN, ASSOCIATE DIRECTOR OF POLICY AND GOVERNMENT RELATIONS, INTERTRIBAL AGRICULTURE COUNCIL

Ms. HOLDEN. Chairman Schatz, Vice Chair Murkowski, and Members of the Senate Committee on Indian Affairs, thank you for inviting me to speak with you all today.

My name is Lexie Holden and I serve as the Associate Director of Policy and Government Relations for the Intertribal Agriculture Council. I am a citizen of the Choctaw Nation of Oklahoma. Today my testimony is going to focus on two tools to help tribal economies and communities prosper.

One of our priorities consistently has been the intentional inclusion of more Native-produced foods in Federal food assistance programs like the Food Distribution Program on Indian Reservations, or FDPIR. FDPIR and other USDA food assistance programs represent both a critical part of the food safety security net for Indian Country and a dedicated institutional market opportunity for Native producers who are vastly underrepresented in these opportunities currently.

This underrepresentation is driven by a variety of factors, including the complicated nature of vendor certification processes at the

Federal level. Advocates and tribal leadership have encouraged USDA's Agricultural Marketing Service for years to be more intentional about reaching out to potential Native vendors by using the IAC's Technical Assistance Network as a resource to connect with producers directly.

We have finally started to see movement on that in the last couple of years, but only after the onset of the COVID-19 pandemic gave AMS additional impetus to rethink local food sourcing. We think that it shouldn't have taken a global health crisis for USDA to take tribal leaders and tribal producers seriously when they call for more Native-produced, culturally appropriate foods, especially in FDPIR which serves primarily tribal citizens.

There are, however, other opportunities to include Native-produced foods in these programs which do not require Native food businesses to navigate the Federal vendor processes. In the 2018 Farm Bill, Congress applied 638 tribal self-determination contracting authority to FDPIR food purchasing in a demonstration project pilot that acknowledges tribal sovereignty and enables tribes themselves to directly buy food for FDPIR sites, rather than having the Federal Government make those decision about what our people should be eating.

Today, because of your support and the work of tribal leaders and the National Association of Food Distribution Programs on our reservations, there are \$3.5 million flowing into Indian Country to support the production of traditional, culturally appropriate, and fresh fruits and vegetables by Native producers, as well as Alaskan fish, all of which are going to tribal citizens in need through FDPIR.

Food sourcing through these 638 contracts is a powerful opportunity for tribal nations to do what we have always done, which is feed our own people. Opportunities in this space could include sourcing locally produced traditional and culturally appropriate foods for BIE schools, either through 638 contracting or perhaps expanded Farm to School opportunities as well. It is programs like these which keep food dollars circulating within our communities, creating jobs for our citizens, and making sure that those in need have access to the kinds of healthy foods that have supported us since time immemorial.

The second tool I would like to uplift is agricultural resource management plans under AIARMA, the American Indian Agriculture Resource Management Act. The Act was passed in 1993, but it has never been fully funded, which is unacceptable, considering the fact that this Act provides an opportunity for tribes to fully embody sovereignty over their lands by ensuring that tribal, not BIA, goals are utilized for tribal management of agricultural lands.

The ARMP process is expensive. Tribes have to pay dedicated staff to build the plans and oversee the project, which involves substantial community feedback from tribal citizens and tribal leadership, not to mention the additional costs to actually oversee, implement and then enforce the plan. For example, the ARMP management team at Blackfeet Nation in Montana estimated that their ARMP process cost them at least \$100,000 for the tribal loan. When tribes attempt to find financial or capacity building support

from BIA offices for this process, they are often told that the offices can't help.

Even tribal nations that are able to find external, non-Federal funding support to embark on the ARMP development process are usually stymied by agency inaction within BIA as part of the understaffing and underfunding concerns. There isn't a uniform rubric or step by step process to inform tribes as to all the required components of the ARMP process.

BIA can also take over six months to provide tribes with requested data that they have to have in order to complete those plans. So at a certain point, given that tribes only have three years to complete the plans once they start, that agency inaction starts to look like actionable discrimination.

Adding to this frustration, BIA has required tribes engaging in ARMP processes to provide a full NEPA assessment in order to prove their compliance. This is a pretty burdensome process for tribes, especially given the lack of funding and staff support from BIA. Essentially, the bottom line is that BIA needs more staff and more available dedicated programmatic funding to be able to implement these agricultural resource management plans. Tribes need AIARMA to be fully funded in order to take advantages of the promise of this legislation.

Thank you for taking the time to listen to my testimony. I believe that these two tools, 638 Tribal Self-Governance contracts and ARMPs could become invaluable in strengthening tribal economies by facilitating market access for Native producers and bolstering tribal self-determination. They just require your support.

Thank you.

[The prepared testimony of Ms. Holden follows:]

PREPARED STATEMENT OF LEXIE HOLDEN, ASSOCIATE DIRECTOR OF POLICY AND
GOVERNMENT RELATIONS, INTERTRIBAL AGRICULTURE COUNCIL

Introduction

Chairman Schatz, Vice Chair Murkowski, and Members of the Senate Committee on Indian Affairs, thank you for inviting me to speak with you all today. My name is Lexie Holden and I serve as the Associate Director of Policy & Government Relations for the Intertribal Agriculture Council. I am a citizen of the Choctaw Nation of Oklahoma. Today my testimony will focus on two tools which, if given the support they require, will continue to help Tribal economies and communities prosper.

Tool 1: 638 Tribal Self-Determination Contracting at USDA

One of the priorities of the Native Farm Bill Coalition (NFBC), of which the IAC is a founding member, has consistently been the intentional inclusion of more Native-produced foods in federal food assistance programs, like the Food Distribution Program on Indian Reservations (FDPIR). FDPIR and other USDA food assistance programs represent both a critical part of the food security safety net for Indian Country and a dedicated institutional market opportunity for Native producers, who are vastly underrepresented in these opportunities currently.

This underrepresentation is driven by a variety of factors, including the complicated nature of vendor certification processes at the federal level. The NFBC and Tribal leadership have encouraged USDA's Agricultural Marketing Service (AMS) for years to be more intentional about reaching out to potential Native vendors by utilizing the IAC's Technical Assistance Network as a resource to connect with producers directly.

We have finally started to see movement on that in the last few years—but only after the onset of the COVID-19 pandemic gave AMS additional impetus to rethink local food sourcing. It should not have taken a global health crisis for USDA to take Tribal leaders and producers seriously when they call for more Native-produced, cul-

turally appropriate foods, especially in FDPIR which serves primarily Tribal citizens.

There are, however, other opportunities to include Native-produced foods in these programs that do not require Native food businesses to navigate the federal vendor processes. In the 2018 Farm Bill, Congress applied “638” Tribal self-determination contracting authority to FDPIR food purchasing in a demonstration project pilot that acknowledges Tribal sovereignty and enables Tribes themselves to directly buy food for FDPIR sites, rather than having the federal government make those decisions about what our people should be eating. This was a historic moment for Indian Country, as this authority had never before been applied to USDA.

Today, because of Congressional support and the work of Tribal leaders and the National Association of FDPIR, there are \$3.5 million dollars flowing into Indian Country to support the production of traditional, culturally appropriate, and fresh fruits and vegetables by Native producers, all of which are going to Tribal citizens in need through FDPIR.

Food sourcing through these 638 contracts is a powerful opportunity for Tribal Nations to do what we have always done: feed our own people. Opportunities in this space could include sourcing locally produced traditional and culturally appropriate foods for BIE schools, either through 638 contracting or expanded Farm to School opportunities. Programs like these keep food dollars circulating within our communities, create jobs for our citizens, and make sure that those in need have access to the kinds of healthy foods that have supported us from time immemorial.

Tool 2: Agricultural Resource Management Plans

The second tool I would like to uplift is AIARMA, the American Indian Agriculture Resource Management Act. It was passed in 1993, but has never been fully funded. This is unacceptable, considering the opportunity the Act provides for Tribes to fully embody sovereignty over their lands by ensuring that Tribal, not Bureau of Indian Affairs (BIA) goals, are utilized for Tribal management of agricultural lands.

Current BIA policies that direct “best interests” decisionmaking regarding Tribal land leases frequently result in lease award determinations heavily weighted in favor of the highest bidder, which is frequently a non-Native off-reservation lessee. When non-Native off-reservation bidders are awarded, the vast majority of revenues resulting from production activity on those Tribally held leased lands, do not recirculate on reservation and the leased lands are subjected to production practices that are largely extractive, that is investments and enrollment in conservation activities or programs and compliance with grazing or land management best practices often fall short.

But this frequently occurring scenario can be addressed through an Agriculture Resource Management Plan or ARMP, which is a comprehensive plan that addresses not only use recommendations and preferences for physical agriculture attributes but incorporates Tribal preference into land management activity. A Tribal bidder preference for Tribal trust lands can be incorporated into an ARMP and encourage better land management practices with Tribal support as well as facilitate the recirculation of revenues on reservation, benefitting Tribal economies as a whole, encouraging generational and community wealth, and create or expand private revenue cycles independent of Tribal government allocations.

Yet the creation of an ARMP is an expensive process to undertake. Tribes must pay dedicated staff to develop the plans and oversee the project, which involves substantial community feedback from all Tribal citizens and buy-in from Tribal leadership. For example, the ARMP management team at Blackfeet Nation in Montana estimated that their ARMP process cost them at least \$100,000 for their Tribe alone. But when Tribes attempt to find financial or capacity support from BIA offices for this process, they are too frequently told that offices are understaffed and underfunded and cannot help.

Even Tribal Nations that are able to find external—non-federal—funding support to embark on the ARMP development process are often completely stymied by agency inaction within BIA as part of understaffing concerns. BIA sometimes takes over 6 months to provide Tribes with requested data that they must have to complete their plans. At a certain point, given that Tribes only have three years to complete the ARMP process within the framework provided by the statute, that agency inaction begins to resemble actionable discrimination.

Adding to this frustration, BIA has required Tribes engaging in ARMP processes to provide a full National Environmental Policy Act (NEPA) assessment in order to prove their compliance. This an incredibly burdensome process, especially given the lack of funding and staff support from BIA. The bottom line is, BIA needs more staff

and Tribes need AIARMA to be fully funded in order to truly take advantage of the promise of this legislation.

A Path Forward

I believe that these two tools, 638 Tribal Self-Governance contracts and Agricultural Resource Management Plans, could become invaluable to the strengthening of Tribal economies by facilitating market access for Native producers and by bolstering Tribal self-determination. They just require your support.

Native Americans have engaged in agriculture to feed their communities since time immemorial. Yet, our traditional ecological knowledge of North America's rich and complex food systems was suppressed in favor of creating a food system more familiar to settlers. Our deep connection to and respect for the land, water, and fauna was often disregarded in favor of a style of agricultural production which favored scale and profits. While early treaties between Tribes and the United States forced Native Americans to become farmers, many of our producers now choose to feed their communities in more traditional, sustainable, and regenerative ways. This choice is an exercise of our right to self-determination.

According to the 2017 Census of Agriculture, nearly 80,000 Tribal producers were operating on over 59 million acres of land, selling \$3.5 billion worth of agricultural products. However, many Native Americans are unable to access the food produced within their own Tribal communities. This is in part due to modern-day barriers, preventing our access to land, credit, and markets have caused Native-produced food to leave the community, taking the associated "food dollars" with it.

Interdepartmental Coordination

One solution to some of the barriers Native American producers face is to increase interdepartmental coordination. There are several relationships which need to be improved: (1) the relationship between USDA and BIA, (2) the relationship between USDA, the Department of Commerce, and the State Department, and (3) the relationship between USDA and the GSA.

The first relationship between USDA and BIA must be improved because many restrictions governing leases on Tribal lands have an impact on which USDA programs our producers can access. Additionally, the current leasing structure is such that it favors the interests of the BIA rather than those of Tribal governments. Currently, leasing contracts on Tribal reservations are given to the highest bidder who, more often than not, is not Native American. This lack of connection to the community, as well as the relatively short lease lengths (10 years) encourage lessees to take as much as they can from the land in order to maximize profits, rather than operate in a manner which considers how future generations will be able to access that land and the surrounding waters. This leads to a degradation of the best plots of land within Tribal communities, while Tribal producers are forced to make do with plots which are of lower quality, placing them at an operational disadvantage from the start. While this might suit some Tribes, Tribal governments should have the ability to determine for themselves what leasing looks like on their lands.

To connect the importance of the aforementioned ARMPs with this conversation around the BIA/USDA relationship, if a Tribe were able to change their leasing structure it might initially result in a decrease in cash revenue, it would likely ultimately benefit the Tribe's economy. When an Agricultural Resource Management Plan favors or prefers bidders who are Tribal citizens, rather than the highest bidder, better support for Tribal sovereignty is only one outcome. The other outcomes include better resource management and increased on-reservation revenue circulation. Better resource management increases agriculture resource health in the long-term, while simultaneously increasing the quality and size of the yield. When agricultural revenue is able to circulate within the reservation economy, it creates more viable opportunities for business, more jobs, and more opportunities for scaling up operations through investments. It is in this way that ARMPs support Tribal economies.

The third relationship which needs to be improved upon is that between the USDA and GSA. The current Federal Acquisition Regulations (FAR), created by the GSA, do not support bringing more Native American producers into federal procurement contracts. At present, Part 26-1 of FAR provides an Indian Incentive Program. While we advocate for such incentives, the way in which the Program is structured does not actually benefit Native American producers. The Program encourages prime contractors to work with Native American subcontractors or vendors. However, the incentive funds go to the prime contractor who is likely non-Native, not the Native American vendor who likely faces barriers to access federal procurement contracts. This structure ultimately does not help our producers. The incentives should go to the Native American vendor as well.

Buy Indian/Buy Native American Preference

Currently, the Buy Indian Act (25 USC 47) directs the Secretary of the Interior and the Secretary of Health and Human Services to use Indian labor and purchase Indian industry products except where impracticable and unreasonable. Such a preference for Native American employees and vendors should be extended to the USDA, especially whenever USDA is purchasing any product, including food, for the purposes of feeding Native Americans within their communities. As the rate of food insecurity is highest for Native American households compared to all other racial/ethnic demographics, it makes sense to source food to feed Tribal communities from Tribal producers. Additionally, for many Tribal nations, their economy is based on agriculture production. In this way, our communities are able to access local or regionally grown, often traditional, foods, and Tribal producers are able to access federal procurement contracts which they historically have been excluded from. If the desire to support Tribal economies is sincere, then a concerted effort should be made to fill federal food procurement contracts with products made and produced by Native Americans. The inclusion of the USDA in the Buy Indian Act would help accomplish this.

Access to Credit

Much of Indian Country is considered a credit desert. There are not enough financial institutions willing to lend capital to Native Americans, particularly for the purposes of agriculture. One of the greatest allies in this effort that has made significant progress is the Native Community Development Financial Institutions (CDFI). Native CDFIs deserve the support to continue their current work, along with the resources and tools to begin tackling agriculture lending. In addition to supporting Native CDFIs, there should be reforms within the larger financial institution space.

In the 2018 Farm Bill, the Native Farm Bill Coalition requested an in-depth GAO report on access to agriculture credit across Indian Country. This was requested with the Community Reinvestment Act in mind. This Act encouraged financial institutions to serve low- and moderate-income neighborhoods, including areas on or near Indian reservations. We know that access to credit remains a barrier for Native American producers, and this report would provide the data necessary to make targeted and broad reforms. However, we instead received a study on the Farm Credit System and its role in helping Native American producers access credit. This was far too narrow in scope, and the results have still not been shared.

The USDA plays a key role in closing the credit access gap for Tribal communities. Tribal Nations, Native/Intertribal organizations, and individual Native American producers use the USDA to access funds because it remains difficult to access them elsewhere. However, the USDA is not a perfect lender or grantor. We suggest that the USDA create Tribal set-asides in any programs which impact Tribal communities, increase the amount that USDA as an agency is willing to invest in projects (to at least 50 percent of the project cost), and transition away from loan programs to grant programs.

Access to Markets

Native American producers do not only face barriers when attempting to access credit, but when trying to access domestic and international markets as well. Within the domestic market, food safety regulations can preclude Native American producers from participating in interstate commerce. Many Tribal Nations exercise their sovereignty by growing, harvesting, fishing, and hunting for their own food, and by developing their own Tribal food codes. Yet for those Tribes who have not developed their own Tribal food codes, federal food safety regulations do not always comport with traditional means of gathering food. Access to certified kitchens and processing facilities are also a challenge, preventing Tribes without access to these tools from transporting and selling their products across state lines.

Infrastructure and equipment needs are a primary concern for producers seeking domestic and international market access. According to the 2017 Census of Agriculture, 24,744 American Indian/Alaska Native-operated farms specialized in beef cattle. Yet at that time, there were no beef processing facilities owned and operated by a Native American Tribe before the Quapaw's facility opened in 2018. Although more Tribes now own and operate their own meat, poultry, and seafood facilities, access to processing facilities remains limited across Indian Country, inhibiting producers.

International market access can be hampered by many factors including competition from larger conglomerates or businesses that have the overhead to compete in the rapidly changing global markets. Our Tribal producers market their items as "premium" products, represented by their higher prices due to the higher costs of agricultural production in Indian Country. In Indian Country, everything is more

expensive, from infrastructure like roads and broadband to farm equipment, fuel, and feed. Many consumers or buyers do not understand the barrier with Tribal producers must overcome in order to sell their products, and will choose the cheaper options instead. Other factors include capacity, political concerns, logistic disruptions, and rising energy and material/packaging prices.

Providing ongoing outreach to introduce USDA programs and services to Tribal governments, communities, and individuals to improve understanding of regulatory and technical support. Additionally, program funds received through Foreign Ag Services, like the Market Access Program and Agricultural Trade Promotion, are critical to the continuation of global market access opportunities for emerging or small to medium size Indian companies. These funds should both continue to flow to Native American producers, and the amount available to our producers should increase in order to help Native Americans capture a larger share of the agriculture market.

The CHAIRMAN. Thank you very much.

Next, we have JT Willie, the Director of the Division of Economic Development for the Navajo Nation.

STATEMENT OF JT WILLIE, EXECUTIVE DIRECTOR, NAVAJO NATION DIVISION OF ECONOMIC DEVELOPMENT

Mr. WILLIE. Good afternoon, honorable members of the Committee, Chairman Schatz, Vice Chair Murkowski. My name is JT Willie, and I will be speaking on behalf of the Navajo Nation and the Navajo businesses located throughout the great Navajo Nation.

I am the Executive Director for the Navajo Nation Division of Economic Development, which is located here in Window Rock, Arizona, on the great Navajo Nation. Our division is primarily focused to advance the economic opportunities here on the Navajo Nation through various initiatives. Our program is designed to work with all of our partners, whether it is through tribal nations, with the State or with the Federal Government. As the world modernizes, so too must the Navajo Nation, of course, with the reestablishment of policies, adjustments so that that are impactful to our Navajo Nation.

As we continued to seek continued opportunities to boost economic growth for future generations, however, like economies throughout the world, the Navajo Nation faced challenges during the COVID-19 pandemic. Great socioeconomic challenges and scarce access to basic infrastructure resources, which many of my colleagues spoke to as I listened at the beginning of this hearing today, is very true here on the Navajo Nation. Therefore, the historic and current reality for many tribal members is a reality for us. Therefore, we strive to continue to sustain our livelihoods, especially those from the business community.

It is the most basic things that many Americans have access to outside of the reservation, such as clean running water, electricity, gas, broadband, groceries, and basic services, these were all very limited to us during the COVID-19 pandemic. As we see that the Nation is moving forward, the Navajo Nation still is in that state where much access to these necessities has been very limited.

So our businesses have been facing various obstacles. The environment for business on tribal lands can be very limited due to Federal policies and laws. Many of these regulations were drafted and agreed upon in a dramatically different context and space.

Additionally, centuries-long discrimination and mistreatment have resulted in the high socioeconomic disparities that we face

here, including those that decrease the sociopolitical abilities, educational and health inequities, language and linguistic barriers, limited financial literacy, inadequate and reduced financial opportunities, which makes it also impossible for our economy to be competitive with outside, what we call border town locations around the Navajo Nation. And of course, the barriers to the basic infrastructure and minimal space for advancement.

Navajo-owned businesses are often unable to obtain Federal assistance due to issues with credit, struggles to provide documentation, and of course, the longevity of some of these applications. With the limitation of infrastructure such as the basic need for broadband, many of these businesses located in rural areas throughout the Navajo Nation don't have direct access to those portals that are located online.

Fortunately, with the CARES funds, we were given an opportunity to assist our tribal members, those within the business community, with financial resources. So we are very thankful to members of Congress for helping us in allocating those funds to the Navajo Nation, which our division had spearheaded to allocate what we called the Navajo CARES Act Artisan and Small Business Economic Relief Grants. These grants were offered not only to Navajo entrepreneurs but to artisans. The artisans are the grassroots of the Navajo Nation. Through various allotments of \$5,000 to \$60,000, we were able to provide assistance to our Navajo entrepreneurs, which helped over 4,302 business owners.

Prior to the pandemic, we had a data base of about 195 businesses. But through this process, we were able to identify 6,346 more individuals who are Navajo-owned businesses throughout the Navajo Nation, even those located off the reservation.

Therefore, as we move forward with the American Rescue Plan Act, we look to reopen the program and to start moving forward. Our division has also been given the green light by the U.S. Treasury to initiate the State Small Credit Business Initiative. Through that, we are working with our partners which are Change Labs, Dineh Chamber, and the Navajo CDFI to expedite that program.

However, some of the issues that our legislative body can address include those that many of us spoke to earlier, which is those hesitations from the bank financial institutions, greater financial resources for our government. Also to revisit policies that limit the land tribal bank ownership here.

With that being said, I have submitted my written comments as well. I thank you for this time, members of the Committee.

[The prepared statement of Mr. Willie follows:]

PREPARED STATEMENT OF JT WILLIE, EXECUTIVE DIRECTOR, NAVAJO NATION
DIVISION OF ECONOMIC DEVELOPMENT

Chairman Schatz, Vice-Chairman Murowski, and Members of the Committee. On behalf of the Navajo Nation and our Navajo Business Community, I thank you for the opportunity to speak with you regarding support for Native Business Capacity Building and Success and the Buy Native American initiative. My name is JT Willie and I am the Executive Director for the Navajo Nation Division of Economic Development (DED) located in St. Michaels, Arizona within the great Navajo Nation.

The DED is one of fourteen divisions within the Executive Branch of the Navajo Nation Government. The DED is the primary entity of the Navajo Nation to advance the economic development initiatives of the Navajo Nation.¹

The division's objective is to promote, support and encourage economic development in the commercial, small business, tourism, industrial and other sectors of the Navajo Nation economy to improve the overall quality of life for the Navajo people.

The division consists of the following Departments:

- Administration
- Business Regulatory Department
- Project Development Department
- Tourism Department
- Real Estate Department
- Support Services Department
- Small Business Development Department/Regional Business Development Offices

In 2021 the Navajo Nation became the largest federally recognized tribe in the United States with a total population of approximately 399,494 members.² The Navajo Nation has a land base of approximately 17 million acres of land, which covers over 27,000 square miles within the states of Arizona, New Mexico and Utah. The Navajo Nation consists of 5 agencies and 110-chapter communities. The Navajo Nation was established as a sovereign nation in the Treaty of 1868 between the Navajo Nation and the United States. The Navajo Nation is governed by a three-branch government system, similar to the U.S. Federal Government structure. This consists of the Legislative Branch, Executive Branch, and Judicial Branch. There are 110 chapter communities within 5 agencies throughout the Navajo Nation each with unique characteristics, qualities, and challenges.

The Navajo Nation is facing extraordinary challenges, including health and social disparity, poverty, as well as language and cultural pressures. Yet, as the Navajo Nation evolves the Navajo people continue to balance culture, tradition, language and modernism.³

The Navajo Nation is continuing to seek and consider opportunities to boost the economic growth for future generations. The Tribe continues to move forward on projects that are profitable, viable, increase employment, improve infrastructure for development, target untapped resources, provide assistance and support for small businesses, improve existing enterprises, and capitalize on new economic prospects using innovation and ingenuity.

The Navajo Nation, like the rest of the globe faced historical challenge that has forever impacted our path forward. March 2020 the World Health Organization declared the COVID-19 outbreak as a pandemic. Globally, economies stammered to a crawl and many businesses struggled to meet their basic needs. The Navajo Nation was hit particularly hard having faced challenges never experienced before.

Unimaginable socioeconomic challenges and scarce access to basic infrastructure resources was and remains the reality for many tribal members. This is especially true for the business community that strives to sustain their way of life. Things that that most Americans take for granted like access to clean running water, electric, gas, broadband, groceries, and basic services were limited prior to the arrival of COVID-19.

Businesses also face additional barriers. The environment for businesses on tribal lands can be severely limiting due to federal policies and laws. Many of these regulations were drafted and agreed upon in a dramatically different context and space. Additionally, centuries long discrimination and mistreatment have resulted in heightened socioeconomic disparities, decreased sociopolitical abilities, educational and health inequalities, language/linguistical barriers, limited financial literacy, inadequate and reduced financial opportunities, insurmountable economic competition outside tribal borders, barriers toward basic logistical infrastructure, and minimal space for advancement. Navajo-owned businesses are often unable to attain federal assistance due to issues with credit, struggles to provide documentation, and oppres-

¹NNDED and Fourth World Design Group. (April 2018). Navajo Nation Comprehensive Economic Development Strategy 2018. P. 3. Retrieved from <https://www.coconino.az.gov/DocumentCenter/View/27915/Navajo-Nation-Comprehensive-Economic-Development-Strategy?bidId=>

²Indian Country Today. (May 2021). Cherokee no longer largest tribe. Retrieved from: <https://indiancountrytoday.com/news/cherokee-no-longer-largest-tribe-navajo-wins>

³NNDED and Fourth World Design Group.(15)

sive applications.⁴ The added burdens of the pandemic further exacerbated issues, therefore putting more weight onto a nation that was already struggling to modernize and adapt to a globalized world.

The CARES Act was passed by Congress on March 25, 2020 and signed into law on March 27, 2020. The Navajo Nation received its allocation of \$714M on June 26, 2020 with Navajo Nation Council Resolution No. CMY-44-20, known as the Navajo Nation CARES Fund Act in place funding was available provided a link to resources at an unprecedented scope and scale.⁵ The Navajo Nation Council allocated \$60M for economic development purposes and was assigned to the Navajo Nation Division of Economic Development.

This provided an opportunity to assist tribal members, most especially the business community with financial resources. The DED established the Navajo CARES Act Artisan and Small Business Economic Relief Grant to provide financial support to Navajo entrepreneurs and business owners. Artists that include, but not limited to; performers, silversmiths, rug weavers, jewelry makers, potters, leatherworkers, crafters, dancers, cultural performers, comedians, storytellers, and more were able to apply and receive up to \$5,000 in artisan grant funds. Small business, equally diverse, that included entities such as; sheepherders, traveling vendors, roadside food stand vendors, rodeo professionals, farriers, consultants, restaurants, bed and breakfasts, tour companies, and more were able to apply and receive up to \$60,000 in small business grant funds. These funds were to be used for payroll, business loan interest payments, rent and utilities, new or expanded technology, mitigate COVID-19, and marketing costs.

Due to the time constraints written into the federal legislation, the grant program was only open for 72 calendar days. The program launched on Labor Day, September 7, 2020 and closed November 20, 2020. Treasury guidelines required that funds needed to be expended by December 21, 2020. This created additional timing challenges along with constraints to acquire resources for outreach and communication, safety measures, recruit personnel, lack of office space, and internal tribal barriers. Additionally, the division worked to simplify the processes as best possible. However, it still provided some challenges for applicants. The two-step process included business registration and a grant application. The division was able to disburse approximately \$28 million in direct grant funding to support to 4,302 business owners. The remaining \$32 million was returned to general Navajo CARES Act funds for distribution to the Navajo Hardship Assistance program.

Prior to March 2020 the Navajo Nation Business Regulatory Department (BRD) had a source list of 195 businesses that were Navajo majority owned at 51 percent or greater and registered with the tribe. Professional services made up a majority of the businesses with 57 percent and the rest following; general contractors—38 percent, special trades/subcontractors -16 percent, and suppliers 7 percent. At the conclusion of the program all data was gathered for review and analysis then published in a report to Navajo Nation Council titled; “NNDDED CARES Act: Artisan and Small Business Grant Report.”⁶ Following these internal reports and analysis, the division reported 6,346 entities to be included with the 195 businesses previously registered within BRD’s source list.

The artisan grant awarded the majority share of the amount disbursed, totaling \$15.7 million and small businesses received \$12.8 million. Of the total, 74.6 percent went to artisans and 25.4 percent to small business grants.

Other key findings and observations:

- The majority of applications were businesses located/operated outside of the Navajo Nation. Immediate access of infrastructure, especially broadband, allowed for an easier application process.
- More applicants from chapters with greater access to infrastructure, in particular chapters where Navajo Tribal Utility Authority offices are located or other government entity offering free use of WIFI located in Window Rock, Tuba City, Chinle, Crownpoint and Shiprock.
- Remote and rural communities had fewer applicants. This could be due to government travel restrictions, limited to no financial means for travel, lack of

⁴ Krisst, Rima. “Struggling. Almost in ruins’: Limited access to COVID-19 relief, PPE leaves Businesses,” Navajo Times, October 23, 2020, <https://navajotimes.com/biz/almost-in-ruins-limited-access-to-covid-19-relief-ppe-leaves-businesses-struggling/>

⁵ 24th Navajo Nation Council, Office of the Speaker. (2020, June 29). *Navajo Nation Receives \$714 million in federal CARES Act funding*. [Press Release]. Retrieved from: https://www.navajonationcouncil.org/wp-content/uploads/2020/09/Navajo_Nation_receives_total_714189631_dollars_in_federal_CARES_Act_funding_PR.pdf

⁶ Navajo Nation Division of Economic Development

Internet service and technology, artists not considering themselves as business owners/entrepreneurs, concern of financial ramifications, concern of government oversight.

- 15 percent of total applications were denied or returned to applicant due to insufficient documentation and/or information.
- There are a total of 6,346 newly identified businesses in some capacity that are owned by an enrolled member of the Navajo Nation.

Despite the many challenges, hardships, and tribulations the pandemic created, it also offered opportunities. The Navajo Nation has always been unique in culture, language, and now in the function of economics. However, a very crucial component of economics is research and data. There is a critical need for proper data representation for all Native American communities. Often data statistics as seen in many census reports is inconclusive or lacks enough substantial representation to be significant. The division has been fortunate in receiving data through the grant program.

The Navajo Nation received nearly \$2 billion in federal funding through the American Rescue Plan Act. The \$32 million that was returned for the Navajo Hardship Assistance Program in 2020 will be returned to the division for distribution to Navajo artists and small businesses that were not able to receive grant funds from the original Navajo CARES Act grant program. It is our mission to see that the full \$32 million be awarded and disbursed to help further support our Navajo business community and ultimately help the Navajo Economy find its footing.

The division was given the green light to submit an application for funds from the U.S. Treasury's State Small Business Credit Initiative (SSBCI). This program provides federal funding to Tribes to distribute in a variety of programs that support the credit and capital needs of Navajo-owned small businesses and entrepreneurs.

With the assistance of the Navajo Nation Department of Justice Economic Development Unit, the division has initiated drafting the SSBCI application due to U.S. Treasury, May 11, 2022. The first phase will be planning and development of Navajo SSBCI programs. To assist, three Navajo business partners have been invited to collaborate; Change Labs of Tuba City, Dineh Chamber of Commerce and Navajo CDFI both of Window Rock. Their expertise, knowledge, and relationships within the business community were the basis of the decision to invite the trio to spearhead our development and implementation of the SSBCI programs. They also collectively have demonstrated experience in small business loans, startup capital, and knowledge of investment opportunities to support Navajo business owners and entrepreneurs.

However, the ability for Navajo businesses, especially on tribal lands, is made a challenge. There are several issues that generate hurdles and impossible to navigate pathways to attain capital and credit.

Some barriers include, but are not limited to:

- Banks/financial institutions hesitancy due to rigid policies as a result of federal tribal laws.
- Borrower's credit history.
- Lack of collateral.
 - Land status, home ownership.
- Lack of experience with the financial world.
- Lender and investors not understanding tribal government issues.
- Historic distrust of banks and tribes.
- Discrimination.

Programs like SSBCI will allow the Navajo Nation to fill in the gap that financial institutions cannot fill. Restrictive policies and practices have inhibited the economic growth that is seen just outside our borders. The economy of the Navajo Nation depends on the willingness of the U.S. Federal Government to allow greater flexibility or see that innovative ideas turn into substantial and impactful policies that foster greater autonomy for our economic decisions. It is widely understood that Small Businesses are the foundation of the economy. We ask for greater flexibility to support our Navajo Small Businesses and ultimately contribute to the greater American economy.

The CHAIRMAN. Thank you very much.

It gives me pleasure to introduce and say hello to you, if not in person, J. Kukui Maunakea-Forth, Founder and Executive Director of MA'O Organic Farms in Wai'anae, on the island of Oahu in Hawaii. Aloha, and welcome. Nice to see you again, even if not in person.

**STATEMENT OF J. KUKUI MAUNAKEA-FORTH, FOUNDER/
EXECUTIVE DIRECTOR, MA'O ORGANIC FARMS**

Ms. MAUNAKEA-FORTH. [Greeting in Native tongue.] I am so bolstered by the comments that were made earlier to affirm and give life to the many, many strategies and policies and workarounds that are being put in place to uplift our people, particularly the legislation and the policies around protecting and safeguarding our women and girls. Mahalo.

My name is Kukui [phrase in Native tongue] Maunakea-Forth. I am from Wai'Anae, and I am really, really pleased to be a witness today.

Our testimony, what I realized in listening to the other speakers, is that many of the comments today were about tribal and the sovereignty expressed through tribal governments. But as many know, that is not the case for Native Hawaiians. So my testimony today, I believe, will sort of reflect maybe some very similar challenges. But of course, some of those challenges are complicated by not just the political status of Kanaka Maoli, but also I think even impacted by just our geographic proximity to resources that the Federal agencies have tried to mitigate in providing those programs to us.

So MA'O Organic Farms is a social enterprise. Our parent organization is a non-profit organization. We are a very, very small piece of the entire Hawaiian and island-based or land-based organizations here, network of organizations here. Our work is considerable, particularly after the pandemic. Because our region has many of the socioeconomic disparities found in Native communities. We know that we are disproportionately impacted compared to other areas in our State.

Poverty is intergenerational. The work that we do is to really bridge educational aspirations, access to post-secondary opportunities for our young people through the means of reconnecting them with the land and addressing our food insecurity and food sovereignty. Over the 20 years utilizing and leveraging many of the Federal earmarks from the Native Hawaiian programs, we have been able to grow from five acres to 286 acres. We have been able to serve over 500 students with post-secondary aspirations. We have graduated many, over 150, with their associate degrees, and 47 with BA degrees.

So we know that this program works. Those are the programmatic benefits. But we also in that time, those same young people have been able to grow good food, organic food, fruits and vegetables for the community, generating over \$8 million cumulatively in our produce sales. All of those flow directly back into our local economy.

But we want to also note that the many challenges that were expressed today by other Federal witnesses and my colleagues just now are certainly the same things that we face. Some of the things

that we want to ensure that is heard at this particular moment is just the definition of rural, the term rural, and being able to address that in a meaningful way. Considering Oahu is made up of four counties and the city of Honolulu, which is the most populated island, Wai'anae is located on the west or leeward coast of that island, which renders us sometimes ineligible for many of the programs that would benefit Hawaii but not our programs here in Wai'anae.

So although we have great partnerships with many of the local agencies that are represented here, including USDA and HUD, EPA and others, oftentimes again, the accessibility and then also the pipeline of programs is something that may be a hit or miss for a small CBO like us. The need really is to have increased coordination and collaboration with our local agencies represented here, and to retool some of the policies, make adjustments mainly, to some of the things that are in place now that are not allowing us access to those programs.

I want to leave you with the idea that the written testimony is there, but we always want folks to visit us, to understand and to talk story about how we can work together. Many of the panelists and many of the folks here, we have had some meetings, but we invite more talk story and more planning, more coordination from everyone. We thank you for this time.

[The prepared statement of Ms. Maunakea-Forth follows:]

PREPARED STATEMENT OF J. KUKUI MAUNAKEA-FORTH, FOUNDER/EXECUTIVE
DIRECTOR, MA'O ORGANIC FARMS

Dear Committee Members:

This week, 44 high school juniors and seniors from the Wai'anae region are spending Spring Break on our farm. From 7am—1pm, they are immersing themselves in the basics of growing row crops, helping to fulfill produce orders bound for markets and tables all over Oahu, and working with our education staff to learn about Olā—holistic health and well being in a Hawaiian cultural context—while also planning for their transition to college and working alongside 60+ other college and recent college-graduate farmers. For most, the paid Spring Break internship is not only a chance to make a little extra money, it is the first entry into life at MA'O (MA'O is an acronym for Mala 'Ai 'Opio, the youth food garden, or the garden that feeds youth, where every year, college-aged youth from our community defy the odds and expectations of Native Hawaiian and Pacific Islanders from the Wai'anae region to run one of Hawai'i's largest certified organic farms while also engaged in full-time college degree programs at Leeward Community College and the University of Hawai'i at West O'ahu.

MA'O is embedded in and primarily serves the community of Wai'anae, which is one of the poorest and most food insecure regions of Hawai'i. Much of the community struggles with the impacts of intergenerational poverty, including preventable diseases, homelessness, and hunger. The region's socio-economic disparities disproportionately impact native Hawaiians, who make up 58 percent of the community, compared with 21 percent of the state's population.

The region's poverty is entrenched in the relationship between low educational attainment and low income. With 16 percent of the region's adult population lacking a high school diploma, and 88 percent lacking a Bachelor's degree, well-paying jobs are out of reach for the majority. Wai'anae's per capita income is \$17,800, compared to the state's \$29,500. Coupled with an unemployment rate triple that of the state's, these low wages relegate a quarter of the community to living under the 100 percent federal poverty level.

The inverse of Wai'anae's deficits is the tremendous opportunity MA'O provides: to empower and educate Wai'anae youth to lead the community to a healthy and prosperous future through the creation of a culturally rooted sustainable food system. In our 22-year history, we have:

- Grown from 5-acres of leased land to owning 286-acres, acquired through 4 separate purchases over the last 12 years.
- Served over 500 college interns and over 600 high school interns through paid workforce training internships and college tuition waivers
- Graduated over 150 youth with Associates degrees, 47 with Baccalaureate degrees, and 1 Master's degree.
- Produced over 2 million pounds cumulatively of organic fruits and vegetables for our community.
- Generated over \$8 Million cumulatively in produce sales, which are dollars re-invested in our youth workforce training and education programs.

Throughout our organization's history, federal programs have helped catalyze key stages of our growth.

- On four separate occasions, funding from the US DHHS ACF Administration for Native Americans (ANA) allowed MA'O to hire or retain education staff and develop a culturally and communally relevant workforce training program;
- A grant from the US DOE Native Hawaiian Education Program supported MA'O and our partners at Wai'anae High School and Wai'anae Intermediate School to strengthen our farm-to-school programming;
- A past loan from the USDA contributed to the purchase of an 8-acre parcel bordering our existing farm, growing our operations that allowed more internships and job opportunities to be created;
- A current grant from USDA Natural Resource Conservation Service which allowed us to promote a farm manager into a program coordinator position who will expand our summer college-level internship program across to five (5) other O'ahu farms engaged in traditional Native Hawaiian, climate-smart food production practices; and,
- A current grant from the US Department of Commerce Economic Development Agency provides key funding for a new food safety-certified post-harvest wash/pack and training facility (breaking ground in a few weeks) that will allow MA'O to expand its operations and internship/workforce opportunities.

Without a doubt, MA'O could not have achieved our impact to-date without the support of these programs. With each, we have become better at articulating our needs and our outcomes. These key investments into predominantly native Hawaiian and Pacific Islander communities are key to addressing many of the entrenched socio-economic challenges faced by our communities. The funds are directed towards systems-level interventions that simultaneously generate individual/youth, organizational and community-level outcomes. Not only have we been able to grow the enterprise operations and strengthen the professional capacity of our staff and youth, and in many cases, we have leveraged these resources to unlock other private, public and nonprofit resources. By its nature, federal grants and resources have also given MA'O a platform from which we are able to connect with practitioners across the country and across the Pacific who are doing similar work in agriculture, food systems, youth leadership and community development.

As we look at the next 5, 10 and 20 years, we see an urgent need to work from the baseline we have established in our first 20-some years, to dramatically scale up youth leadership, expand an agroecologically-based food system and develop community-level knowledge capacity and strategies that are pono (just), sustainable and resilient. As our communities brace for the cascading impacts of the pandemic—significant learning loss, loss of employment, cost of living increases and of course overwhelming physical and mental health issues, we must stay ahead of the curve and enhance our social programming. As an agricultural enterprise, we have also been meaningfully engaged in developing our response to climate change. Our farms' ability to pivot and implement these climate adaptations efficiently will be critical in meeting the community's looming food insecurity. In the next five years alone, MA'O plans to:

- Engage 500 more high school and after-school youth in culturally informed, entrepreneurial, work based learning experiences;
- Graduate 300 more Wai'anae youth with Certificates, Associates Degrees and/or Bachelor's/Master's degrees;
- Create an additional 20 more sustaining jobs at MA'O, provide placement to alumni in culturally and communally aligned positions in community;

- Bring an additional 100-acres of fallow land into cultivation with organic row crops, fruit orchards, agroforestry for timber/fiber, as well as native and indigenous plants for cultural and ceremonial purposes;
- Deliver 6 million more pounds of certified organic, fresh fruits and vegetables to our community.

The most prominent hurdles MA'O faces to scaling up are shared by many other Native Hawaiian farmers and 'aina-based (land-based) organizations (and likely faced by similarly positioned native governed organizations across the US) include:

- Food-Safety Certification and Compliance—the process is time intensive, lots of paperwork to meet national standards.
- Wrap-Around Services and Resources- there is a lack of accessible health, mental well-being, academic and family support available post-Pandemic.
- Automation & Technology—there is a lack of technology and process to achieve scale.
- Energy and Water Efficiency—there is a lack of access to products/services, the infrastructure is cost prohibitive.
- Affordable Housing—there is a need for a stable workforce, particularly for staff and families in rural and native communities

These are hurdles which require coordination, funding and partnership to overcome. MA'O and other Native Hawaiian-led organizations working in our food system are prepared to take on these challenges in partnership with federal agencies such as USDA, ANA and EDA. However, our community's need and our capacity to create positive outcomes is often not matched in the federal programs we see being offered.

For example, despite the fact that there are many individuals in our Hilo, Hawaii-based USDA office that are consistently responsive and supportive, just in the last 18-months, MA'O encountered the following experiences with USDA programs:

- USDA Rural Development (RD) Multi-Family Housing
 - Many strong agricultural communities throughout the State of Hawai'i do not qualify based on RD's population thresholds because Hawai'i is generally more densely populated than much of the rest of the country. The 2020 census reports that the average US population density is 93.8 persons per square mile. Whereas in the State of Hawai'i, that figure is 226.6 persons per square mile.
 - MA'O and other Native-led agricultural organizations are also often disqualified from USDA and RD programs on the basis of income. Across Honolulu county per capita income averages \$36,816 vs. \$34,103 nationwide. While this may seem like our residents are faring well, the reality is that these dollars do not go far in our high-cost-of-living State. And, disparities within communities are masked by data which does not immediately account for the poverty that many Native Hawaiian and Pacific Islander families bear while living in the same neighborhoods as more affluent families.
 - Moreover, as a "lender of last resort," RD's housing related programs set an extremely high barrier to meet. As our local banks and CDFIs have improved and expanded their understanding of the needs of Native Hawaiian led, 'aina-based organizations like MA'O, it is more possible to obtain financing. However the interest rates at which that financing is offered often makes projects infeasible, thus putting many deserving rural, indigenously-serving projects in a position of not being able to prove they cannot obtain financing in order to access RD's programs, yet not being able to afford the financing they can obtain.
- USDA High Energy Cost and Rural Energy for America Program (REAP)
 - MA'O actively seeks support to add a PV array to our new processing facility to offset the energy needs of the large walk-in chiller and automated wash machinery within We not only seek renewable energy not only for its alignment with MA'O's 'aina-based and sustainability values (our local utility depends largely on coal-fired plants), but because such a system will make our farm operations more resilient in facing power outages caused by extreme weather and an aging utility infrastructure. However, thresholds for utilities costs tied to USDA energy programs eligibility leave these opportunities barely out of reach. Meanwhile, the Bureau of Labor Statistics lists household electricity costs per kWh in Honolulu county as the highest among all locations reporting data. In fact, at \$.327/kWh, Honolulu's cost is more than double the national average of \$.142/kWh.

We know there is precedent for redefining eligibility for USDA programs, and believe that this is necessary to create greater impact for a wide array of Native Hawaiian-led organizations in our state's food system.

- Reinstatement of the 2005 waiver Section 278-1-A-B-6 that allows any community out of urban HNL to qualify for RD programs, while also expanding it to all islands in the State (not just Honolulu County, island of Oahu) see attached for copy of 2005 waiver.¹
- Allow Hawai'i USDA program applicants to use Department of Hawaiian Home Lands (DHHL) subdivision boundaries to help define location eligibility to better target programs to communities with high concentrations of Native Hawaiians.
- Expand the Substantially Underserved Trust Area (SUTA) program to all USDA programs and specifically recognize proximity to DHHL lands as eligibility for SUTA

In terms of our broader experience with other programs such as ANA or EDA, the same general points of friction pose a challenge to MA'O to make the best use of the program resources and are likely barriers to many other Native Hawaiian-led organizations even attempting to access these programs at all:

- Reporting burden. For small Community Based Organizations (CBO) like MA'O, there is often a misalignment of the RFP expectations for reporting with the reality of time and resources available for reporting. In the past, we have worked to incorporate the program narrative reporting into our workflow, however, financial reporting is still burdensome. Since the pandemic, many of the reports have transitioned into online reporting, however, the access to the portals, the outreach/access to technical assistance, and the obsolete/duplicative processes are still areas they are working on.
- Scarce/scant resources to meet the RFP proposal criteria. To be competitive, 'aina based organizations need access to technical assistance during the proposal writing process. ANA has an excellent model of TA/TTA Centers that are based throughout the US that other agencies could note. Virtual meetings have helped with access to TA but not necessarily with the quality of services to build/develop a competitive proposal.
- Staff turnover, understaffing. When we are lucky enough to receive program funding, staff turnover and understaffing at the federal agency often leaves us with inconsistent guidance on program administration or reporting. We often have to contend with long wait times for guidance and approvals, hampering our ability to deliver outcomes effectively and efficiently, and to meet the deadlines of the grants or loans themselves.

MA'O and our Native Hawaiian colleagues working in food systems across the State recognize there is always more we can do to improve our ability to qualify for these federal programs and to work collaboratively with federal agencies. We will continue to evolve and progress in our ability to be good stewards of these public resources, and—we humbly ask for your continued involvement, guidance, assistance, support and partnership in order to serve our native communities with excellence.

On behalf of MA'O youth and staff, and many other 'aina based, Native Hawaiian Organizations, mahalo for your care and consideration of our testimony.

The CHAIRMAN. Thank you very much.

Next, we have Gary Hennigh, the City Administrator of the City of King Cove, Alaska.

STATEMENT OF GARY HENNIGH, CITY ADMINISTRATOR, KING COVE, ALASKA

Mr. HENNIGH. Good afternoon, Chairman Schatz, Vice Chair Murkowski, and members of the Senate Indian Affairs Committee.

My name is Gary Hennigh, and I have been the City Administrator for King Cove, Alaska, for the last 32 years. King Cove is located 625 miles southwest of Anchorage, at the western end of

¹The information referred to has been retained in the Committee files.

the Alaska Peninsula, right before the start of the Aleutian Islands.

King Cove was founded in 1911 when a Seattle-based fish company decided to locate a cod cannery on the shores of what is now King Cove on the tip of the Gulf of Alaska. Aleut people have been living in this area for more than 4,000 years.

In 1949, King Cove was one of the first and smallest local municipal governments to incorporate in the territory of Alaska, 10 years before Alaska statehood. This decision was an early indication of the awareness by King Cove Aleuts that being part of a larger statewide governance network was very important.

The majority of residents today are Aleuts with approximately 550 members of the Agdaagux Tribe and 50 members of the Belkofski Tribe. The King Cove Corporation created by the Alaska Native Claims Settlement Act further solidified the community's desire to be economically and culturally linked to the rest of the State and the Pacific Northwest.

Today, King Cove is one of Alaska's premier fishing communities, having two large harbors and one of the State's largest seafood processing plants. Residents maintain both an active commercial fisheries and subsistence lifestyle, and are very experienced living in harmony with the area's physical environment, which is a combination of rugged volcanic mountains, some of them active, earthquakes, melting glaciers, and relentless winds that will top 100 miles an hour many times throughout the year. However, on top of all this is a spectacular beauty that nature has bestowed on this very remote region of Alaska.

Living in King Cove requires good human survival skills, resilience, and an understanding of the relationship between the natural and human environments. One such example in King Cove is that over the last three decades, the community has emerged as one of Alaska's premier rural renewable energy communities, where 85 percent of our annual electricity is created by our two run-of-the-river hydroelectric facilities. These two hydro facilities displace more than 300,000 gallons of fuel on an annual basis.

These renewable energy accomplishments are a direct result of the long-established partnership between the two tribes in King Cove, the Village Corporation and the local government. Starting in the late 1980s, then-U.S. Senator Ted Stevens encouraged the community to actively explore and develop our first hydro facility based on feasibility work completed by the Army Corps of Engineers. Further adding to this encouragement and financial support was then-Alaskan Governor and former U.S. Secretary of Interior, Walter J. Hickel. And of course, our very own Senator Lisa Murkowski and Congressman Don Young have been great supporters and champions of our renewable energy accomplishments for over two decades now.

Back in 1993, a \$250,000 grant to the Agdaagux Tribe from the Department of Energy Tribal Energy Office was the initial financial catalyst to amass the necessary \$5.7 million to construct our first hydro. King Cove was very anxious to provide a 50-year no-cost lease for using 250 acres of their ANSCA land to site the facility, including the impound structures, two miles of access roads, powerhouse and a five-mile transmission line.

This partnership is further accentuated by the reality that most King Cove residents are tribal members, shareholders of the for-profit corporation, and active members of the city's municipal government. The community has long since established the awareness and necessity of working together to achieve community sustainability.

The next step in the evolution of renewable energy in King Cove is to begin selling our significant amount of surplus hydro power to the community's seafood processor. This additional revenue will allow the city to further reduce the city's current kilowatt hour electric costs, further reduce energy production costs for the seafood processor, and remove additional carbon emissions from our environment.

In summary, our working partnership with the two tribes and the King Cove Corporation have been an excellent model for King Cove in achieving renewable energy independence. Thank you.

[The prepared statement of Mr. Hennigh follows:]

PREPARED STATEMENT OF GARY HENNIGH, CITY ADMINISTRATOR, KING COVE,
ALASKA

Dear Chairman Schatz, Ranking Member Murkowski and Members of the Senate Indian Affairs Committee,

Thank you for the opportunity to submit this testimony on "Buy Native American: Federal Support for Native Business Capacity" hearing. My name is Gary Hennigh and I have been the City Administrator for King Cove, Alaska for the last 32 years. I would like to share a very successful story of renewable energy development in a rural Alaska community involving its local government, a Native Tribe, and a for-profit Village corporation.

King Cove is the 32nd largest community in Alaska with a population of 950 residents. The community is located 625 miles southwest of Anchorage at the western end of the Alaska Peninsula—right before the start of the Aleutian Islands. King Cove was founded in 1911 when a Seattle-based fish company decided to locate a cannery there on the northern shores of the Gulf of Alaska and adjacent the Bering Sea. Aleuts had already been living in this area for the past 4,000 years.

In 1949, King Cove was one of the first, and smallest, local municipal governments to incorporate in the Territory of Alaska—ten years before Alaska Statehood. This decision was an early indication of the awareness of King Cove Aleuts that being part of a larger statewide governance network would be very important.

The majority of residents today are Aleuts with approximately 550 members of the Agdaagux Tribe and 50 members of the Belkofski Tribal Council. The King Cove Corporation (KCC), created by the Alaska Native Claims Settlement Act (ANCSA) in 1971, further solidified the community's desire to be economically linked and active throughout the region and State.

Today, King Cove is one of Alaska's premier fishing communities having two large boat harbors and one of the State's largest seafood processing plants. Residents maintain both an active commercial fisheries and subsistence lifestyle. They are experienced living in harmony with the location's natural and physical environment, which is a combination of rugged, volcanic mountains (some active), earthquakes, melting glaciers and relentless winds that will top 100 mph many times throughout the year. However, on top of all this is a spectacular beauty that nature has bestowed on this very remote region of Alaska!

Living and prospering in this area requires good human survival skills, great resilience and having an understanding of the relationships between the physical and human environments. One such example is that King Cove, over the last three decades, has emerged as one of Alaska's premier rural renewable energy communities where 85 percent of our annual electricity is created by two very successful, run-of-the-river hydroelectric facilities.

These renewable energy accomplishments are a direct result of the long-established partnership between the two tribes in King Cove, the KCC, and the local government. Starting back in the late 1980's, then-U.S. Senator, Ted Stevens, encouraged the community to actively explore and develop our first hydro facility, Delta Creek. The potential for developing this hydro facility was initially based on feasi-

bility work completed by the Army Corp of Engineers in the mid-1980's. Further adding to this initial encouragement and financial support was then-Alaska Governor and former U.S. Secretary of Interior, Walter J. Hickel. And of course, our very own United States Senator, Lisa Murkowski, and Congressman Don Young have been strong advocates for our two hydro projects and have personally visited King Cove to observe them in operation.

Back in 1993, a \$250,000 grant to the Agdaagux Tribe from the Department of Energy's Tribal Energy Office was the initial financial catalyst to amass the \$5.7 million needed to construct our first hydro site using Delta Creek. The Tribe promptly transferred this grant to the city. The city also procured a 25-year loan for \$2 million from the U.S. Department of Agriculture/Rural Development to help fund the project. And, KCC was quick to provide a 50-year, no-cost lease for approximately 100 acres of their ANSCA land to locate the facility, including two impound structures (i.e. small dams less than 10' high), two miles of access roads, powerhouse, and a 5-mile transmission line.

This partnership is further accentuated by the fact that most King Cove residents are tribal members, shareholders of KCC, and active participants in the city's municipal government activities. The residents' long-time willingness to work together to achieve community sustainability and progress is quite remarkable.

The next step in the evolution of renewable energy in King Cove is to begin selling our "surplus" hydro power to the community's large seafood processor. This additional revenue will allow the city to reduce its current kWh electric costs while reducing energy costs for the seafood processor and remove additional carbon emissions in our local environment. Our ultimate goal is to simply have the lowest electric kWh cost anywhere in Alaska! We believe this is achievable.

Finally, the City may resume its earlier efforts to consider adding wind generation to our energy portfolio. We previously learned from a few years of collecting wind data, that King Cove has "class 6 winds" knowing that anything over class 3 winds are commercially viable. We also know that we have the potential for another hydro facility in the Delta Creek Valley. Our pursuit of these possibilities will continue in partnership with our Tribes and KCC. The possibility of another grant from DOE's Tribal Energy Office to begin exploring these options will be pursued.

In summary, the city's partnerships with the Agdaagux and Belkofski Tribes and KCC have been an excellent model in our quest, and results, for renewable energy independence. Attachment A provides additional background information regarding our renewable success in King Cove.

Thank you.

Attachment A

The following testimony was provided by King Cove City Mayor, Warren Wilson, to the U.S. Senate Committee on Energy and Natural Resources on January 11, 2022. This testimony furthers details the history of success that the City of King Cove, and its partners the Agdaagux Tribe of King Cove and King Cove Corporation (created by the Alaska Native Claims Settlement Act) have experienced with renewable energy production and our reliance on it for the past 28 years in our remote and rugged environment at the western end of the Alaska Peninsula, which is 625 air miles southwest of Anchorage. A few minor edits have been made subsequent to filing this testimony with the Committee.

Thank you for the opportunity to submit testimony on the opportunities and challenges for maintaining existing hydropower capacity, expanding hydropower at non-powered dams, and increasing pumped storage hydropower. The role of hydropower in our nation's energy mix is more important than ever, particularly in rural Alaska.

I am very pleased to report that the City of King Cove is truly a leader in remote/rural Alaska hydropower! King Cove's municipal electric utility generates about 85 percent of its annual electricity demand of approximately 4.5MWh from two, small run-of-the-river hydro facilities. We have worked long and hard to achieve this success and are very proud of our accomplishments.

Our first hydro facility, Delta Creek, came online in December 1994. From that time through mid 2017, Delta Creek was producing at least 50 percent of the community's electricity demand. As we learned more about this facility and observed its excellent performance, we started to investigate the feasibility of developing another adjacent source of water to compliment this facility. We further learned that another hydro project would have bring a significant cost advantage by being able to share/benefit some of the Delta Creek investment in transmission lines and expanding the hydro powerhouse where our generator and turbine are located.

Then, our second hydro facility, Waterfall Creek, came online in June 2017. This hydro is about 60–70 percent the size/capability of Delta Creek. They operate to-

gether in great harmony. Together, these two hydro facilities are displacing over 300,000 gallons of diesel fuel on an annual basis, as well as eliminating a substantial amount of carbon emissions in our community. This is a big deal in helping to provide substantial cost savings to our municipal utility and our community. We are saving our residential customers about a \$1,000 annually in electric costs.

We also have approximately 1.5 MWh of “surplus hydro” that we are now expecting to soon start selling to the local fish processing plant in King Cove. Currently, this large processing facility, New Peter Pan Seafoods, has their own independent diesel system. They are very interested in purchasing this surplus hydro and reducing their reliance on diesel-generated energy. This next chapter in the evolution of renewable energy reliance at the western end of the Alaska Peninsula is exciting.

Next, I would like to briefly summarize the key cost and financial operating parameters of these two hydro facilities.

- Delta Creek—cost \$5.7 million (1993/94). This project was funded through a variety of sources including a U.S. Dept of Energy/Indian Tribal grant (\$250,000); local government grants (\$750,000); State of Alaska grants (\$2.8 million); and USDA/RD (\$1.9 million). The 25-year loan from USDA/RD was paid in full in 2019.
- Waterfall Creek—cost \$6.5 million (2015/2017). This project was also funded through a variety of sources including the State of Alaska Renewable Energy Funds grants (\$2.8 million), local government grants & cash of \$500,000, and \$3.1 long-term debt from the Alaska Municipal Bond Bank and Alaska Energy Authority’s Power Project Fund.

The King Cove electric rate is \$0.30/kWh. While this rate is about 2½ times more than the average kWh rate throughout the Lower 48, it is the “cheapest” non-subsidized rate of electricity in rural Alaska. And, the good news for King Cove is that we expect to soon be in a position to further lower this rate by possibly as much as ⅓ due to the cost savings now accruing from our initial investments in renewable energy.

I would also like to note that in 1995 our Delta Creek project received the Grand Award from the American Consulting Engineers for “excellence in engineering and design” and then in 2017 Delta Creek was selected as one of the 13 small hydro projects worldwide to be profiled in the “Good Practice Report” prepared by the International Energy Agency. Finally in September 2017 at the Arctic Energy Summit in Helsinki, Finland, King Cove was selected for the “Best Practice Award” for community renewable energy independence. These acknowledgements reinforce that our past decisions (and risk) to invest in renewable energy were the right decisions to make.

In summary, the City of King Cove proudly suggests that our experience and success with these two, small run-of-the-river hydro facilities can be used as a positive model to follow for other small, rural communities throughout the United States. I encourage you, Chairman Manchin and the other ENR Committee members, to encourage these types of small hydro projects as excellent examples of renewable energy that can be accomplished in balance with the physical and human environments.

The CHAIRMAN. Thank you to all of our witnesses.

Before I get into my questions, I want to let the witnesses who are all across the Country know that our Federal witnesses don’t have to be here anymore, but are all sitting in the audience taking notes. I think that speaks to their commitment. I appreciate your and your spouses who you have probably texted to say, I will be late for dinner. The sacrifice you are making and the commitment to learning from Native people across the Country is exemplary. It shows a real commitment to these issues. I just wanted to appreciate that.

Ms. MAUNAKEA-FORTH. we both know that Hawaii’s unique characteristics are not always understood by especially Federal agencies and lawmakers, which can lead to serious disparities in access. A couple of examples I have heard about that I would like you to speak to, grant funding depending on the definition of rural, which you have made reference to, Federal loan eligibility hinging on the

ability to qualify for private financing, and then the eligibility criteria may not account for the high cost of really everything in the State of Hawaii. I am wondering if you could help us to illuminate these unique challenges for Hawaii.

Ms. MAUNAKEA-FORTH. Certainly. Thank you for the question. I guess we do need to discuss retooling the definition of rural. Because I think there is so much nuance in that.

Again, we have a great team out here that is willing to work with us to make those eligibility criteria and maximize and optimize that for the organizations that are really at the grassroots, helping to uplift the entire community. By uplifting our Native Hawaiian community, which is the most vulnerable, it uplifts the entire community.

For us, just being a Native-rooted organization, sometimes we are seen as competitive. But really, I think what you were speaking about, this collective effort could be a role that our Federal agencies play in bringing some of the information and the people and the resources that can help us to be more organized around the priorities and really try to make the systemic changes not just in the process but also the workflow.

I did want to mention that out here we have the Department of Hawaiian Homelands. That is one of the agencies that we believe can help us to unlock some of the policies in a local context, at a local level. We are also looking at it widely and expanding the SUTA. I think that is something that there is a local group that is coming together to help us to retool.

The CHAIRMAN. Thank you very much. I will just observe that, I don't see it in any of the three Federal witnesses, but there is an intuition that Native Hawaiians don't qualify for certain programs. It is true that Native Hawaiians don't qualify for certain programs because they are not a federally recognized tribe.

But it is fewer than you think, because we have a trust responsibility, the Federal Government has a trust responsibility with Native Hawaiians. I want that to flow through every agency and every person who administers a program that has heretofore not serviced the Native Hawaiian community needs to be asked whether they are citing to some statute or just simply a habit and an assumption.

What I see in the three of you are people who are committed to sorting out that which can only be fixed by Congress and that which is just a bad habit and an assumption about who is eligible and who is not. I really appreciate that.

Ms. Holden, we have heard about the challenges that Native businesses face when trying to obtain credit from private lenders who are unfamiliar with tribal tax nuances, Native crops and reservation structures. How do we help? How do we bridge the gap between Native businesses and private finance?

Ms. HOLDEN. Thank you so much, Senator, for that question. As you all know, much of Indian Country is considered a credit desert. There aren't enough financial institutions willing to lend capital to Native Americans. Particularly in the space of ag lending, sometimes as you said it can be for a lack of knowledge on the part of the lending institution about how to collateralize trust land, which can be collateralized, but it is a common misnomer that it cannot

be. Or perhaps folks are unfamiliar with the types of agriculture that our producers are engaging in, because it might not be the traditional cows and corn that lending institutions are more used to and more comfortable with.

In this regard, it is a lot about trying to educate lending institutions, both private and Federal, about what it looks like to do agriculture in Indian Country, and what kind of credit access our producers need. It also looks like strengthening Native community development financial institutions, or CDFIs. There are a lot of CDFIs across Indian Country who are doing some phenomenal work, particularly in the age lending space.

Also, something that the Native Farm Bill Coalition, of which the IAC is a founding member, asked for in the 2018 Farm Bill was actually a GAO report on access to agriculture credit across Indian Country, not just through FSA or through USDA, but the private institutions as well. We didn't get that. We got a look at access to ag lending credit through the farm credit system, which will useful does not capture the disparities in access to credit in the same way that the original report we asked for would have. So I think having this data in hand would also be extremely important for any reforms that we would like to see going forward.

USDA plays an enormous role in closing the credit gap for tribal communities. We would love to see continuing reforms at USDA to ensure that tribal producers are able to walk into their local FSA offices and be serviced in the way that any other individual would be.

These are just a couple of the ways that I really appreciate your bringing up this access to credit question.

The CHAIRMAN. Thank you, Ms. Holden. Can you send us a letter giving us a little bit of guidance on what needs to happen next? I can understand this problem conceptually. I am not exactly sure what we need to do next, and I think you do know. So please give us some instructions here, and we will take it under advisement.

Ms. HOLDEN. Absolutely.

The CHAIRMAN. Mr. Willie, we worked hard during CARES and ARPA and the Bipartisan Infrastructure Law to secure robust funding for physical infrastructure. But here is my question. Beyond funding, what should Congress and the Administration do to support on-reservation business development?

Mr. WILLIE. Thank you for that, Mr. Chair, and members of the Committee.

As far as the question for the Navajo Nation's concern, much of the funds that were designated for use were geared toward those specific things such as infrastructure. Now the many things that we face with our businesses, I just gone done with a few consultations this morning, reflects the fact that much of our businesses here on Navajo have entered into a business lease with us. However, the ownership of those leases and that land is not in the possession of the entrepreneur. Therefore, when advancements are made on their behalf, it becomes ownership of the Navajo Tribe.

Of course, we can make those changes here within the leases to set back and pay back the lease in some way to them, but that is over a long-term time for these leases. We are looking to 25-, 50-year, 100-year leases in some cases.

Therefore, eliminating some of those deficiencies that I also highlighted in my submitted testimony to you, and also to reflect that some of these polices have been hindering us as far as the ownership of some of these land statuses. Navajo Nation, of course, as we know is unique as far as different land statuses of both the States that we occupy, New Mexico and Arizona, in all contexts.

That concludes my response, Mr. Chair.

The CHAIRMAN. Thank you very much.

Senator MURKOWSKI. Thank you, Mr. Chairman. I wanted to turn to Mr. Hennigh. I appreciated, Gary, what you have outlined in terms of how these run-of-the-river hydro projects have made a community more sustainable, but also allow for some growth opportunity. If you are the processor there, and your power costs are so high you can't afford the cold storage, you don't have much opportunity to do much in terms of business development.

So you have not only had the one hydro project, but you have both Delta and the waterfall hydro project. So you have kind of lived through the gauntlet of how you access support through the agencies, through DOE, through their loan guarantee.

Can you give any insight to the Committee in terms of the things that were helpful and good to build out these renewable energy projects, or the known barriers there? Can you speak a little bit to the experience there?

Mr. HENNIGH. Sure, thank you, Senator Murkowski, for that question. I think the working relationship that the local government, again being dominated by Aleuts, along with the two tribes and the King Cove Corporation, together felt like we can find the solutions to fund these projects. If we are successful in developing them, that who knows what the future might hold.

What that is trying to say is now with the new owners of the seafood processing plant in King Cove, they want to purchase the surplus power that we have now. But they also know, like the city, that we have the potential for a third hydro facility along with knowing that we have class six winds. For those of you who are familiar with wind generation, anything over a class three wind is commercially viable.

So the new owners of the seafood processing company, the two tribe, the King Cove Corporation and the city are now all looking at taking yet another step to add more renewable energy. Not so much that we need it for the residential part of the community, but for the industrial part of the community. So our economic survival with greater processing at the seafood plant that can be done by renewable energy can be another win-win for the community, for the fishermen, for the processors, and for all the people who get to eat the wonderful products that come from this very remote region of Alaska.

Senator MURKOWSKI. So, clear benefit with regard to building out the economy. But in terms of impediments that you had insofar as accessing the necessary capital to move forward, can you speak a little bit to that?

Mr. HENNIGH. Sure. Our ability to access capital for the two hydro projects was fairly reasonable in terms of the process we had to go through. Certainly with your support, Senator Murkowski, and Congressman Young's, we were able to work with the Depart-

ment of Agriculture, the rural development folks back in the early 1990s. Early on, we thought that process was going to be very difficult. But it turned out to be a fairly smooth process.

So that has given us the incentive to believe that as long as we have a good business plan and that we can show the results that we can now show, that our ability to find the next level of capital funding for more renewable energy development should not be insurmountable that we can't make it happen. We are very positive that our experience gives us the potential and the lenders the comfort of knowing that we know what we are doing when it comes to harnessing Mother Nature.

Senator MURKOWSKI. Thank you. You have demonstrated that. Thank you.

I wanted to ask a quick question, probably to Ms. Maunakea-Forth, and possibly to Ms. Holden as well. This is about the microgrants for food security program. It is something that I had worked really hard to get into the last Farm Bill. We have seen great success in the State of Alaska. These are small, small loans, that is why we call them microgrants. So it is not for big ag by any extent.

What we are trying to do in Alaska is reintroduce farming, growing your own food, this whole concept of food security. The daunting thought of a big project, big agriculture, is too much for so many. But you have to get started somewhere. So whether it is seeds or whether it is the high tunnels to allow for a longer growing season, whether it is fencing to keep the moose out so they don't eat your crops, these have been hugely, hugely important.

Can either one of you share with me whether these microgrants are something that you feel are helpful? I know that they are already oversubscribed with the funding that we have appropriated.

Ms. MAUNAKEA-FORTH. I would love to say that we were a beneficiary, but I am just glad that that program is oversubscribed. Yay! Our MA'O has always been invested in young people. So today, we have over 90 people reconnecting to their lands, learning agri-ecological practices, understanding the [phrase in Native tongue], the deeper reason of their why, their purpose, through language, through [phrase in Native tongue], through hula. To be able to create that future ancestor that understands the foods that come from their work and their intention to feed, that is really the gift.

So whatever we can do to [phrase in Native tongue] other organizations, and we do work with several tribes, and also several of the programs that have initiated and studied by many of you here on the call today, that is where I think we need to continue to work, helping to elevate our youth to be a part of this. Mahalo.

Senator MURKOWSKI. Thank you, Mr. Chairman.

The CHAIRMAN. If there are no more questions for our witnesses, members may also submit follow-up questions for the record. The hearing record will be open for two weeks. I want to thank all of their witnesses for their time and their testimony.

This hearing is adjourned.

[Whereupon, at 5:42 p.m., the hearing was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF THE UNITED SOUTH AND EASTERN TRIBES SOVEREIGNTY PROTECTION FUND

The United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) is pleased to provide the Senate Committee on Indian Affairs (SCIA) with the following testimony for the record of the March 16, 2022 oversight hearing, “Buy Native American: Federal Support for Native Business Capacity Building and Success.” During the 2022 State of the Union Address, President Biden renewed his Administration’s commitment to the ‘Buy American’ initiative, which was established by the January 2021 Executive Order 14005, “Ensuring the Future is Made in All of America by All of America’s Workers” (EO 14005). EO 14005 was issued to ensure that the federal government would invest taxpayer funds to support American businesses, workers, and manufacturers. However, the ‘Buy American’ initiative has not necessarily recognized and supported the contributions and production of goods and services by Tribal Nations and our businesses. The federal government must support our self-determined and sovereign rights to pursue initiatives for economic development that rebuild Tribal Nation economies.

For the ‘Buy American’ initiative to be successful, federal departments and agencies must remove regulatory barriers that hinder our ability to create economic opportunity for our businesses and entrepreneurs. This can be accomplished by broadening 638 self-determination compacting and contracting opportunities for Tribal Nations and utilizing ‘Buy American’ to purchase goods and services from Tribal Nations and businesses. This will support Tribal Nations and businesses to rebuild our economies and empower our initiatives to rebuild economic development and opportunity for our citizens. Additionally, the federal government must support Tribal economic parity by protecting our businesses from dual taxation, the restoration of Tribal homelands, and provide accessible opportunities for energy production and distribution.

USET Sovereignty Protection Fund (USET SPF) is a non-profit, inter-tribal organization advocating on behalf of thirty-three (33) federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico.¹ USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations and in assisting its membership in dealing effectively with public policy issues.

Economic Development in Indian Country and the USET SPF Region

Prior to European contact, Tribal Nations, including our members, had a long history of dynamic economies and governance structures. Robust trade networks connected Tribal Nations and the goods we produced. As with other aspects of Tribal governance and infrastructure, the removal, termination, and assimilation policies of the United States government negatively impacted our traditional economic trade. Over the course of centuries, Tribal Nations ceded millions of acres of land and extensive resources to the U.S.—oftentimes by force—in exchange for which it

¹ USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Catawba Indian Nation (SC), Cayuga Nation (NY), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe-Eastern Division (VA), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mi’kmaq Nation (ME), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Monacan Indian Nation (VA), Nansemond Indian Nation (VA), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Rappahannock Tribe (VA), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), Upper Mattaponi Indian Tribe (VA) and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

is legally and morally obligated to provide benefits and services in perpetuity. Because of this historic and ongoing diplomatic relationship, the federal government has trust and treaty obligations to support Tribal self-governance and self-determination, along with rebuilding Tribal Nations and economies. Unfortunately, at no point has the federal government fully delivered upon and upheld these obligations.

In addition to being relegated to fractions of our original homelands, which can be in remote areas, Tribal Nations lack governmental parity in economic development opportunities and treatment under the U.S. tax code. The Federal Reserve Board of Governor's 2012 report, *Growing Economies in Indian Country*, outlined eight issues as fundamental challenges to realizing economic growth in Indian Country. USET SPF's member Tribal Nations, with few exceptions, face these same challenges, such as:

1. Insufficient access to capital;
2. Capacity and capital constraints of small business;
3. Insufficient workforce development, financial management training, and business education;
4. Tribal governance constraints;
5. Regulatory constraints on land held in trust and land designated as restricted use;
6. Underdeveloped physical infrastructure;
7. Insufficient research and data; and
8. Lack of regional collaboration

All Tribal Nations, especially USET SPF member Tribal Nations, vary in levels of economic activity, capacity, and development. Some Tribal Nations have decades of experience and familiarity with economic development initiatives, while some are just starting to pursue these initiatives. This diversity demands that federal policy not adopt a one-size-fits all approach in supporting Tribal Nations and businesses to pursue economic development initiatives to support our communities and engage in nation rebuilding.

Expand 'Buy American' to Include 'Buy Indian' Across the Federal Government

We appreciate SCIA's effort to examine the barriers Tribal Nations and businesses experience in accessing financial capital and marketplaces to produce and distribute Native goods, resources, and services. The 'Buy American' initiative must recognize Tribal Nations and businesses as economic development partners and direct federal agencies to actively purchase products manufactured, harvested, and produced by Native businesses and entrepreneurs. Furthermore, the 'Buy American' initiative should be expanded to include federal government purchasing priorities outlined by the Department of Health and Human Services and Department of the Interior's 'Buy Indian Act' ('Buy Indian') regulations. More effective and expanded implementation of 'Buy Indian' regulations should be included in the 'Buy American' initiative and implemented across the federal government to ensure that all departments and agencies are prioritizing the purchase of goods and services from Tribal Nations and our businesses. This will support President Biden's 'Buy American' initiative and empower Tribal Nations and businesses to pursue economic development opportunities.

In June 2021, the Department of the Interior (DOI) hosted Tribal consultations on proposed revisions to its 'Buy Indian Act' regulations to increase contract preferences for Indian Small Business Economic Enterprises (ISBEEs) and Indian Economic Enterprises (IEEs). Proposed revisions also included updates on subcontracting to ensure consistency with Federal Acquisition Regulations and an update to the process for deviating from the 'Buy Indian Act' to ensure greater preference for IEEs. USET SPF submitted comments in support of DOI's proposed revisions to fulfill the intent of the law and recommended the expansion of the Act's provisions across the whole of the federal government. We reiterated these recommendations to the Department of Health and Human Services (HHS) in response to its November 2020 rulemaking to update the department's 'Buy Indian' regulations. In addition to expanding 'Buy Indian' across the federal government, USET SPF also recommended that DOI and HHS increase internal accountability, communication, and compliance protocols to document and report on anticipated, pending, and completed ISBEE and IEE solicitations. Furthermore, we recommended that DOI and HHS develop ongoing evaluation mechanisms for 'Buy Indian' implementation by hosting annual Tribal Listening Sessions to receive feedback on successes and challenges with the Act's implementation. Federal agencies adopting 'Buy Indian' regulations

should also include these recommendations to ensure the purpose and intent of the law is meaningfully implemented to support Tribal Nations and our businesses.

Ensure Tribal Nation Economic Parity

With nearly every aspect of economic development regulated by the federal government, economic progress in Indian Country is often stymied with legal and regulatory burdens on Tribal Nations and businesses. These burdens have contributed to a perpetual cycle of social and economic hardships in our communities. Congress and the Administration must work to free Tribal Nations from over-burdensome laws and regulations that impede our social and economic success. This is especially important in an environment of the federal government's failures to uphold trust and treaty obligations to fully fund programs and services for Indian Country. Similar to other governments, Tribal Nations provide vital services to our people, which are funded by revenues generated by our businesses. The federal government, as well as state governments, should recognize and uphold Tribal Nation sovereignty and self-determination to pursue these economic development initiatives. These include efforts to support Native producers.

As it is for any other sovereign, economic sovereignty is essential to our ability to be self-determining and self-sufficient. The rebuilding of our Tribal Nation economies involves the rebuilding of our Tribal economies as a core foundation of healthy and productive communities. Building strong, vibrant, and mature economies is more than just business development. It requires comprehensive planning to ensure that our economies have the necessary infrastructure, services, and opportunities for our citizens to thrive. This results in stronger Tribal Nations and a stronger America.

The U.S. government has a responsibility to ensure that federal tax law treats Tribal Nations in a manner consistent with our sovereign governmental status, as reflected under the U.S. Constitution and numerous federal laws, treaties, and federal court decisions. With this in mind, we remain focused on the advancement of tax reform that would address inequities in the tax code and eliminate state dual taxation. Revenue generated within Indian Country continues to be taken outside our borders or otherwise falls victim to a lack of parity. Similarly, Tribal governments continue to lack many of the same benefits and flexibility offered to other units of government under the tax code. USET SPF continues to press Congress for changes to the U.S. tax code that would provide governmental parity and economic development to Tribal Nations.

This includes support for H.R. 4054, the Tribal Tax and Investment Reform Act, introduced by Representative Ron Kind on June 22, 2021. H.R. 4054 would specify the treatment of Tribal Nations as states with respect to bond issuance, modify the treatment of pension and employee benefit plans maintained by a Tribal Government, modify the treatment of Tribal foundations and charities, improve the effectiveness of Tribal child support enforcement agencies, and recognize Tribal governments for purposes of determining whether a child has special needs eligible for the adoption tax credit.

Protect Tribal Nations from Dual Taxation

Dual taxation hinders Tribal Nations from achieving our own revenue generating potential. Although Tribal Nations have authority to tax noncitizens doing business in Indian Country, when other jurisdictions can tax those same noncitizens for the same transactions, Tribal Nations must lower their taxes to keep overall pricing at rates the market can bear or forgo levying a tax at all. The application of an outside government's tax often makes the Tribal tax economically unfeasible.

Dual taxation undercuts the ability of Tribal Nations to offer tax incentives to encourage non-Indian business entities onto our lands to create jobs and stimulate Tribal economies. As long as outside governments tax non-Indian businesses on our lands—even if a Tribal government offers complete Tribal tax immunity to attract a new non-Indian business—that business is subject to the same state tax rate that is applicable outside our jurisdictional boundaries. As a matter of economic fairness, we ask that you work with us to support and advance initiatives that would bring certainty in tax jurisdiction to Tribal Lands by confirming the exclusive, sovereign authority of Tribal governments to assess taxes on all economic activities occurring within our jurisdictional boundaries.

Support Tribal Nation and Business Development in the Energy Sector

USET SPF member Tribal Nations, and our respective Tribal Lands and energy resources, are located within a large region that presents diverse geographical environments and opportunities for both conventional and renewable energy development. Our member Tribal Nations could benefit from the unlocked potential of those energy resources and realize energy development goals through appropriate Con-

gressional and administrative action and investment in Indian Country, particularly to promote balanced geographical representation and inclusion of USET SPF member Tribal Nations in energy programs. USET SPF has established its energy priorities, as follows:

- Promote Tribal self-determination and control of natural resources and energy assets to make conservation and development decisions that preserve Tribal sovereignty, protect Tribal assets, and achieve economic independence, job creation, and improvement of Tribal members' standard of living;
- Promote Tribal capacity building efforts involving multiple federal agencies, universities, and the private sector;
- Reform core federal programs, expertise, and funding to support Tribal energy resource development and market access; and
- Remove barriers to the deployment of Tribal energy resources, such as bureaucratic processes, insufficient access to financial incentives, and interconnection to and transmission on the power grid.

Enacting legislation and developing regulations to support these initiatives will advance the energy capabilities of Tribal Nations and translate into beneficial economic and health and wellness outcomes for our communities.

Restoration of Tribal Homelands

Possession of a land base is a core aspect of sovereignty, cultural identity, and represents the foundation of a government's economy. That is no different for Tribal Nations. USET SPF Tribal Nations continue to work to reacquire our homelands, which are fundamental to our existence as sovereign governments and our ability to thrive as vibrant, healthy, self-sufficient communities. And as our partner in the trust relationship, it is incumbent upon the federal government to prioritize the restoration of our land bases. The federal government's objective in the trust responsibility and obligations to our Nations must be to support healthy and sustainable self-determining Tribal governments, which fundamentally includes the restoration of lands to all federally-recognized Tribal Nations, as well as the legal defense of these land acquisitions. With this in mind, USET SPF continues to call for the immediate Senate consideration and passage of a fix to the Supreme Court decision in *Carciari v. Salazar*.

Support Self-Governance Contracting and Compacting for Tribal Nations

Tribal Nations are political, sovereign entities whose status stems from the inherent sovereignty we have as self-governing peoples that pre-dates the founding of the United States. The U.S. Constitution, treaties, statutes, Executive Orders, and judicial decisions all recognize that the federal government has a fundamental trust relationship to Tribal Nations, including the obligation uphold the right to self-governance. Our federal partners must fully recognize the inherent right of Tribal Nations to fully engage in self-governance, so we may exercise full decisionmaking in the management of our own affairs and governmental services.

Despite the success of Tribal Nations in exercising authority under the Indian Self-Determination and Education Assistance Act (ISDEAA), as well as the recently enacted Practical Reforms and Other Goals to Reinforce the Effectiveness of Self-Governance and Self-Determination (PROGRESS) for Indian Tribes Act, the goals of self-governance have not been fully realized. Many opportunities still remain to improve and expand upon its principles. An expansion of Tribal self-governance to all federal programs under ISDEAA would be the next evolutionary step in the federal government's recognition of Tribal sovereignty and reflective of its full commitment to Tribal Nation sovereignty and self-determination.

As was discussed during the hearing, this includes an expansion of ISDEAA into federal nutrition programs. The 2018 Farm Bill authorized a demonstration project for Tribal Nations to pursue 638 contract and compact opportunities under the Indian Self-Determination and Education Assistance Act (P.L. 93-638) for the U.S. Department of Agriculture's (USDA) Food Distribution Program on Indian Reservations (FDPIR). This 638 authority should be expanded to the Supplemental Nutrition Assistance Program (SNAP) and other vital federally administered nutrition programs. Tribal Nations, like other units of government, are responsible for providing essential services to our citizens, which includes those related to nutrition and health and wellness. Tribal Nations have demonstrated that we have the capacity to fully administer SNAP programs to Tribal citizens, as we have been administering far more complex federal programs for decades. However, and in spite of a 2014 USDA feasibility study, Tribal Nations continue to be excluded from administering SNAP and other nutrition programs under P.L. 93-638 contracting and compacting. USET SPF joins Tribal Nations and organizations across the country

in calling upon SCIA and Congress to ensure that Tribal sovereignty and self-determination for federal nutrition programs is made a reality, including as part of the next Farm Bill reauthorization.

In addition, we urge that P.L. 93-638 authority also be extended to forestry programs at USDA. When Tribal Nations manage our own forests, we are able to prioritize traditionally harvested plants and animals that provide vital elements of a healthy Indigenous diet.

Conclusion

Economic insecurity in Indian Country is a symptom of the larger issues we face as Tribal Nations, due, in large part, to the failure of the U.S. government to live up to the terms of our diplomatic, Nation-to-Nation relationship. Development and implementation of policies and programs that recognize and uphold our inherent sovereignty and fulfill trust and treaty obligations are necessary to alleviate economic hardship, rebuild Tribal Nations, and improve the quality of life for our citizens and communities. Congress must continue to support and fully fund federal programs that encourage economic development and the rebuilding of Tribal economies. We welcome the opportunity to collaborate with the Committee on economic policy that better honors federal trust and treaty obligations while upholding our inherent sovereignty.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BRIAN SCHATZ TO
JANIE SIMMS HIPP

Question 1. You testified that the Department of Agriculture has key information and expertise to contribute to the Department of the Interior's efforts to address impediments and barriers in the agricultural leasing space. What affirmative steps can be taken to ensure effective collaboration between the Department of Agriculture and the Department of the Interior on agricultural leasing and other issues of importance to Native communities?

Answer. As the Department of the Interior (DOI) takes steps to amend the agricultural leasing template, U.S. Department of Agriculture (USDA) can provide technical assistance on contemporary agricultural practices, flexible language to support both traditional and western agricultural strategies, and opportunities for creating alignment with USDA programming. USDA Natural Resources Conservation Service is also available to provide for conservation planning where otherwise required or recommended under these leases.

One of the more important things we think we have identified is USDA building in flexibility into our processes when DOI-BIA is involved, and us asking DOI-BIA to build into all their forms flexibility and deference to USDA, to ensure our processes can evolve over time together.

USDA would also like to work with BIA to promote the HEARTH Act process so more tribes can take control of their own leasing. Additionally, DOI and USDA collaborated to host three listening sessions last year that covered topics such as marketing, contracting, federal lands, and brucellosis.

Question 2. What can the Department of Agriculture do to establish a Native purchasing preference in procurement for the Department? What support—if any—would the Department need from Congress to establish such a preference?

Answer. USDA is looking into some existing treaty provisions but does not currently have independent statutory authority to pursue Native purchasing preferences in the Farm Bill. For example, Buy Indian applies to BIA and IHS but has not been extended to USDA, NMAI, or other federal agencies with an Indian Country procurement impact. USDA would welcome Congressional authorization of Indian purchasing preferences for federal food and nutrition programs directly and primarily serving Tribal nations and tribal citizen households.

Question 3. To what extent is the Department of Agriculture partnering with other relevant agencies to obtain and share data to ensure Tribal policymaking efforts across all agencies are well-informed and based on full and accurate data?

Answer. In the March 2021 USDA tribal "Consultation on Racial Equity/Barriers," tribal leaders requested USDA explore opportunities to utilize tribal data to inform tribal need and opportunities when submitting program applications. In particular our Rural Development tribal team has begun conversation with DOI regarding measurements of economic success and distress, and our Forest Service tribal team have begun conversation with DOI regarding measurements of land and treaty definitions.

USDA staff participate regularly across the White House Council for Native American Affairs and its committees as applicable. This includes collaborating on

specific goals of the committees as well as analyzing where agency needs overlap. We welcome additional cross agency collaboration on data as well as congressional action that would allow us to have additional flexibility in determining which data sets are appropriate to use, including self-reported data provided by Tribes.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BEN RAY LUJÁN TO
JANIE SIMMS HIPPI

Subject. USDA Agricultural Producer Procurement Programs, Food Distribution Program on Indian Reservations, ReConnect Program, Tribal Consultation Action Plan, Tribal Advisory Committee

The Navajo Agricultural Products Industry, or NAPI, is a Native-owned business in New Mexico established in 1970.

NAPI participates in a state program called the Buy Local Initiative, which connects producers with food service companies and schools to integrate fresh, local and seasonal foods into children's school meals.

Part of what made this program successful was not only the state's proactive outreach to Tribes and Tribal businesses from the get-go, but the intentional training and networking it fostered that allowed Native producers to build sustainable business models with partners and customers.

Though NAPI has successfully navigated the 638 process through the Bureau of Indian Affairs to win contracts and is certified as a U.S. Department of Agriculture (USDA) food vendor, it has not participated in USDA's contract procurement process because of the barriers the program presents for Native producers.

For example, USDA puts out a purchase announcement for approved USDA vendors to supply potatoes to three states over a six-month timeframe.

Such commodity procurement processes essentially prevent Native producers like NAPI from participating, as many do not have the desired product in stock during the specified timeframe, have limited storage and transportation capacity, and each solicitation is not designed for small scale, local distribution or for seasonal and traditional foods.

Question 1. Ms. Simms Hipp, what changes can USDA make to its commodity procurement process to improve access for more Native businesses like NAPI?

Answer. USDA Agricultural Marketing Service has solicited non-competitive cooperative agreements from state or tribal governments through the Local Food Purchase Assistance program. This program finances government purchases of food from underserved, including tribal producers, to distribute locally through their community. This program utilizes temporary funding made available using the American Rescue Plan Act.

Without Congress authorizing "Indian purchase" preference for USDA, USDA is exploring some treaty provisions and additional flexibilities available through HUBZones, administered by the Small Business Administration, and related tribal interests. Following up on the March 2021 "Consultation on Racial Equity/Barriers," USDA hosted a series of consultations addressing tribal equity from April 11–18. During the April 12th tribal equity consultation on "Food, Safety, and Trade," USDA clarified with Tribal Leaders their interest on where USDA should prioritize small batch procurement, better suited to the size of tribal farms and food enterprises, and solicitations for indigenous foods.

USDA is looking into some existing treaty provisions but does not currently have independent statutory authority to pursue Native purchasing preferences in the Farm Bill. For example, Buy Indian applies to BIA and IHS but has not been extended to USDA, NMAI, or other federal agencies with an Indian Country procurement impact. USDA would welcome Congressional authorization of Indian purchasing preferences for federal food and nutrition programs when they directly and primarily serve Tribal nations and tribal citizen households.

Question 2. Ms. Simms Hipp, what would be the impact of a Native preference in USDA procurement processes should Congress authorize such a priority?

Answer. Congressional authorization of Indian purchasing preferences for federal food and nutrition programs directly and primarily serving Tribal nations and tribal citizen households could have a significant positive economic development impact on Native producers and could result in an increase in local grown and indigenous foods in federal food packages.

As with any locally grown and/or specialized food, however, local Native grown and produced foods are likely to have higher production costs and Congress may want to consider a price evaluation preference, such as with the HUBZone and other programs.

Question 3. Ms. Simms Hipp, what are USDA's plans to sustain this program and integrate best practices into the Agricultural Marketing Services' commodity procurement process?

Answer. USDA has utilized current authorities available under HUBZones, administered by the Small Business Administration (SBA), to provide for set asides in procurement and is looking to expand this use. Virtually all of Indian Country is eligible to qualify for a HUBZone designation. USDA is exploring how these flexibilities could apply for relevant procurement solicitations. To be eligible, an applicable Native food enterprise would need to be certified by SBA as a HUBZone and by AMS as a qualified vendor.

Question 4. Ms. Simms Hipp, what would USDA need to implement a "Buy Indian" initiative within USDA's commodity procurement process or within its Food and Nutrition Service programs?

Answer. USDA is looking into some existing treaty provisions but does not currently have independent statutory authority to pursue Native purchasing preferences in the Farm Bill. For example, Buy Indian applies to BIA and IHS but has not been extended to USDA, NMAI, or other federal agencies with an Indian Country procurement impact. USDA would welcome Congressional authorization of Indian purchasing preferences for federal food and nutrition programs when they directly and primarily serve Tribal nations and tribal citizen households.

Question 5. Ms. Simms Hipp, how is USDA looking to increase lending and investment opportunities for Native businesses, and how is it conducting proactive outreach to Tribes and Native enterprises?

Answer. We have identified a few systemic barriers to access for tribes in our lending and investment opportunities that we are fixing. These include some internal and some statutory inconsistencies in how we categorize tribal government owned corporations and their eligibility. For these and other Rural Development eligibility criteria, USDA recognizes how the hybrid structure of tribal nation corporations, instrumentalities, and enterprises operate both for commercial and government purposes. USDA is currently reviewing Rural Development authorizations to ensure that these tribal entities are eligible for program funding as either/or both government and business interests as appropriate.

A second area USDA is working on, is recognizing the lack of tribal government tax base and the need to build in matching and other financial flexibilities when possible. We began to address this challenge in our broadband programs. Though the ReConnect Round 3 funding opportunity we included new flexibilities to provide Tribes with more attractive grant funding options to improve broadband infrastructure at a minimum 100Mbps symmetrical service level. For projects intending to serve tribal lands or socially vulnerable communities as defined by the U.S. Center for Disease Control, USDA Rural Development offered grants of up to 100 percent for eligible project costs with zero (0) match required.

Another example of matching flexibility was built into the Local Agricultural Marketing Programs (LAMP) administered by USDA Agricultural Marketing Service (AMS) to support tribal nations and enterprises in developing or expanding agriculture and food systems. Under LAMP, the Farmers Market Promotion Program offers grant financing for direct, farm to consumer market channels; the Local Food Promotion Program supports intermediary distribution channels, including grocers; and the Regional Food System Partnership program offers funding for developing collaborative, regional models. These programs require a 25 percent match per the Agriculture Improvement Act of 2018. During this funding cycle, AMS transitioned from requiring a cash-match to allowing in-kind, providing tribes with additional flexibility in how they meet this eligibility criteria.

Tribal nations have consistently raised matching requirements as a significant hurdle to our economic development programs. Many of our matching requirements are statutory. USDA welcomes Congress' guidance on future flexibility on matching requirements for tribal nations.

USDA continues to conduct outreach directly to tribal nations and producers, both through electronic and in-person platforms such as conferences or tribal meetings and in collaboration with tribal organization partners to raise awareness on these and other USDA financing opportunities.

Question 6. Ms. Simms Hipp, how much additional funding beyond the \$2 million provided would USDA need expand this pilot program to more Tribes?

Answer. In terms of cost, the maximum currently allowed in 2018 Farm Bill legislation is \$5 million. To-date, Congress has appropriated \$3.0M each year from FY 2020 through FY 2022 for a total of \$9.0M to support implementation of the Food Distribution Program on Indian Reservations (FDPIR) Self-Determination Demonstration Project. Given the initial success of the FDPIR 638 demonstration

projects, tribal leaders have expressed an interest in not only continuing and expanding this program to include more tribes but also expressed an interest in institutionalizing this approach across FDPIR in its entirety.

Such an approach would mean that there would not need to be a specific line item but all of FDPIR would be eligible. An Indian Tribal Organization implementing this program would have the option of either coordinating through the USDA Food and Nutrition Service to purchase and distribute foods or they could receive funding directly, in part or in full, from FNS for the tribe to administer this program directly for the benefit of their community. In this case, the tribe would purchase local or regional foods and stock their site for distribution accordingly.

The total cost for this new approach would require research and would be more than the current FDPIR costs, due to loss of some cost efficiencies in consolidated national and bulk purchasing and additional administrative costs. But it is achievable. There are also possibilities of cost savings through factors like decreased transportation costs and tribal efficiencies seen in other self-governance-like structures. This transition would also serve as an affirmation by the U.S. government of tribal sovereignty and be consistent with the oft stated goals of the tribal leaders.

Question 7. Ms. Simms Hipp, what changes can USDA make to the pilot program to incorporate traditional foods from more Native producers?

Answer. While USDA has not required demonstration projects take such action, participating Tribes in the demonstration project have primarily contracted with Tribal vendors, and many have chosen to incorporate traditional foods, such as bison, whitefish, squash and wild rice.

One of the challenges for the Native producers that has already arisen is that these projects are not permanent. Many smaller Native producers cannot scale up to meet the pilot project/tribe's demand without assurances that opportunities to continue contracting will remain available.

Question 8. Ms. Simms Hipp, what policies can USDA change internally to support Native business capacity building, especially Native agricultural producers, beyond FDPIR in all its nutritional programs?

Answer. USDA recognizes that food sovereignty is economic sovereignty, and the need to empower tribal food growers, processors, and retail/grocer after the COVID-19 pandemic has never been greater. We have heard that the 25 percent cash match required under the Farm Bill inhibited tribal participation to the Local Agricultural Market Program (LAMP). This set of programs is significant because it supports both the planning and implementation of food distribution channels: direct to consumer, intermediary/grocer, and regional food system resilience. This year, USDA provided new flexibility by accepting either a cash or in-kind match for programs under LAMP.

Using one-time ARPA flexibilities, USDA is currently accepting applications for non-competitive cooperative agreements for both Tribes and State governments to purchase food from tribal and underserved producers and distribute this food locally. We have heard from Tribal Leaders for a number of years on the importance of subsidizing local procurement of Native producers to spur local food economies, and the Local Food Purchase Assistance program directly addresses this need.

Separately, tribal economies benefit by recapturing all levels of the food supply chains, including at value added processing and packaging. USDA recently announced two tribal partners under the Meat and Poultry Processing Capacity Technical Assistance Program, the Flower Hill Institute and Intertribal Agriculture Council, to provide dedicated technical assistance to Native and non-Native communities on establishing meat processing facilities. USDA anticipates utilizing flexibility under ARPA to release a new program in the Summer 2022 supporting early to mid-stage development projects for building new or expanding processing plants across the country, including in tribal nations.

Question 9. Ms. Simms Hipp, how can Congress ensure all these agencies are effectively working together to address the unique needs of Tribal communities?

Answer. Executive Order 13175 establishes benchmarks for agency decision-making warranting consultation and the process for conducting these government-to-government discussions. Congressional legislation that further cements this requirement, including the protection of tribal sensitive data from public release, would further USDA and other agency's ability to engage tribal governments in substantive and specific dialogue on how USDA can better address their needs. The White House Council on Native American Affairs has also served as an important vehicle in fostering inter agency cooperation.

Question 10. Ms. Simms Hipp, what is the status of USDA's official action plan responding to President Biden's 2021 Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships?

Answer. USDA created an action plan last year and USDA Office of Tribal Relations submitted it on April 26, 2021, to the White House.

Question 11. Ms. Simms Hipp, what is the status of USDA's efforts to establish its Tribal Advisory Committee?

Answer. The 2018 Farm Bill established a Tribal Advisory Committee (TAC), but then-President Trump issued a signing statement that the TAC was unconstitutional. USDA Office of General Counsel has sent inquiry to White House Counsel on how to proceed.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MIKE ROUNDS TO
JANIE SIMMS HIPPI

New Markets for State-Inspected Meat Act

Question 1. Ms. Hipp, you mentioned several times in your testimony the need to address supply chain interruptions in Tribal Communities as well as the importance of local production having a local impact. I have introduced legislation, the "New Markets for State-Inspected Meat and Poultry Act (S. 107)" that addresses both of these concerns. The bill would allow for meat and poultry products inspected locally by State Meat and Poultry Inspection programs to be sold in interstate commerce. This approach would have the benefit of preventing potential supply chain interruptions, like we saw during COVID-19, and allowing local production to have a positive impact on communities by creating new market opportunities for Native producers. Can you speak to the importance of creating new market opportunities in new states for Native producers, if this legislation were to be signed into law?

Answer. USDA broadly supports legislation and related opportunities expanding agriculture and food markets for tribal and non-Native communities. Under the American Rescue Plan Act, USDA is taking steps to provide funding for developing and expanding meat, et al. processing facilities and has required that such processors either maintain or seek to maintain USDA inspection.

As new processing facilities surface across tribal lands, tribes must determine what inspection requirement best meets their needs and upholds their sovereignty. Providing parity for state and federal inspection may broaden markets; however, USDA has heard tribal leader reluctance to pursue state regulation of tribal enterprises, including through inspection programs. USDA is respectful of the desire of tribal nations to have tribal government inspection processes as well.

SNAP Tribal Food Sovereignty Act

Question 2. Ms. Hipp, my colleague Sen. Tina Smith and I have introduced legislation, the SNAP Tribal Food Sovereignty Act (S. 2757), to amend the Indian Self-Determination and Education Assistance Act to allow the Secretary of Agriculture to enter into self-determination contracts with Indian Tribes and Tribal organizations to carry out supplemental nutrition assistance programs (SNAP). Can you provide some context for the committee as to why it is important for Tribes to be able to make these decisions for themselves and how this legislation might have the potential for improving the quality of life in Indian Country?

Answer. USDA recognizes the important role that Indian Tribal Organizations (ITOs) have in ensuring tribal households have access to nutrition assistance, including SNAP. USDA requires State SNAP agencies to consult with ITOs in the administration of SNAP and encourages collaboration that enhances culturally competent access to SNAP.

USDA has heard tribal leader interest across the country on extending tribal administration and/or oversight of SNAP to tribal agencies. There are complex cost and administrative concerns to take into consideration. Additionally, there are barriers in current law that prevent ITOs from administering SNAP in full. USDA welcomes the opportunity to discuss this potential expansion of tribal self-determination with Congress.

USDA is committed to working with tribes to determine which nutrition assistance programs are best targeted to meet their needs and upholding our trust responsibility to meet the interest of tribal sovereign nations. Additionally, the Tribal administration of SNAP, which includes SNAP-Ed funding, could allow Tribes to directly manage SNAP-Ed allocation and develop nutrition education and food access activities specific to tribal needs within the current SNAP-Ed guidance that apply to all SNAP administration agencies. However, Tribes are not currently included in the SNAP-Ed funding allocation formula under section 28 of the Food and Nutrition Act of 2008.

School lunch funding issues

Question 3. Ms. Hipp, I was glad that you discussed food security in your testimony. Food security overall is an important concept and an important objective. One place it is particularly important for Tribes in South Dakota is in the schools. School meal programs at the schools on Tribes' Reservations in South Dakota are a key way the Tribes' youth receive nutritional meals and stave off hunger. Often because of prevalent poverty, school meals are the only meals the youth receive. Unfortunately, it appears that the resources dedicated to school meals are far less than what is required to meet the need. One Tribe's P.L. 100-297 school informed me that it only receives reimbursement for the cost of food supplies and one person's salary. You cannot run a school meal program with just that. Additional staff is needed; preparing and storing the food is also needed. Thus, the school ends up subsidizing its meal program with funding that is supposed to go directly towards educational resources. This school is indicative of all the schools on this particular Reservation, and I have to think it is happening among at least the other Tribes in South Dakota. Can you speak to the efforts USDA is undertaking to address these funding shortfalls and what avenues Tribes have to properly fund both staff and school meals? Other than additional funding, what are USDA's solutions to this problem? Would USDA support a reconfiguration of how school meal funding goes to schools on Reservations?

Answer. FNS USDA appreciates the steps schools are taking to ensure that school-age youth receive adequate nutrition throughout the day. Funding for school meals is generally authorized under the "Richard B. Russell National School Lunch Act (P.L. 79-396, as amended by P.L. 116-94), reimbursing school food authorities for meals that meet eligibility guidelines serving students qualifying for free, reduced price, or paid eligibility status.

Funding for school meals is often stretched nation-wide. USDA would be open to discussions with Congress on funding opportunities addressing this funding shortage in general and also specifically on Indian reservations.

School Meal Delivery

Question 4. In terms of Native Business Capacity Building and Buy Native American, what authorities does USDA have to facilitate Tribal or Native small businesses in the school meal food delivery area—particularly for those Tribes that do not have surplus resources? Does USDA partner with the Department of Commerce on facilitating Native business in the food security arena? What, if any, additional authorities from this Committee would be helpful for USDA to have to facilitate its efforts towards food security in Indian Country, specifically on large, land-based, remote reservations?

Answer. USDA has utilized current authorities available under HUBZones, administered by the Small Business Administration (SBA), to provide for set asides in procurement and is looking to expand this use. Virtually all of Indian Country is eligible to qualify for a HUBZone designation. USDA is exploring how these flexibilities could apply for relevant procurement solicitations. To be eligible, an applicable Native food enterprise would need to be certified by SBA as a HUBZone and by AMS as a qualified vendor. This is also an area where tribes have requested Congressional authorization for separation from state school lunch regulations.

USDA is looking into some existing treaty provisions but does not currently have independent statutory authority to pursue Native purchasing preferences in the Farm Bill. For example, Buy Indian applies to BIA and IHS but has not been extended to USDA, NMAI, or other federal agencies with an Indian Country procurement impact. USDA would welcome Congressional authorization of Indian purchasing preferences for federal food and nutrition programs directly and primarily serving Tribal nations and tribal citizen households.

Buy Indian Act

Question 5. The Buy Indian Act Authorizes DOI and HHS to purchase supplies, services, and equipment from qualified Native American vendors. Is it possible to use the Buy Indian Act to purchase Indian Agriculture Products, such as MREs or school lunches through cooperation between the Departments of Agriculture, Interior, and Defense? Is additional guidance from congress needed to enhance inter-agency cooperation in this area?

Answer. School districts typically manage their own budgets in collaboration with third-party, private vendors to provide the majority of foods for breakfast and lunch. USDA, in turn, offers reimbursement through the School Breakfast Program and National School Lunch Program respectively.

In 2015, the USDA Food and Nutrition Service released guidance on the "Service of Traditional Foods in Public Facilities," including schools, to clarify for school dis-

tricts and related authorities how traditional foods meet dietary guidelines and are eligible for reimbursement.

As a whole USDA is looking into some existing treaty provisions but does not currently have independent statutory authority to pursue Native purchasing preferences in the Farm Bill. For example, Buy Indian applies to BIA and IHS but has not been extended to USDA, NMAI, or other federal agencies with an Indian Country procurement impact. USDA would welcome Congressional authorization of Indian purchasing preferences for federal food and nutrition programs directly and primarily serving Tribal nations and tribal citizen households.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. LISA MURKOWSKI TO
JANIE SIMMS HIPPI

Question 1a. On February 24, 2021, President Biden issued Executive Order 14017 “America’s Supply Chains.” Executive Order 14017 directs the Administration to support a resilient, diverse, and secure supply chain that is able to withstand pandemics and other biological threats, cyber-attacks, climate shocks and extreme weather events, terrorist attacks, geopolitical and economic competition, and other conditions that can reduce critical manufacturing capacity. The Executive Order requires Agency heads to consult outside stakeholders—such as those in industry, academia, non-governmental organizations, communities, labor unions, and State, local, and Tribal governments. Can you discuss how each of your Agencies have consulted with Tribal governments, and relevant stakeholders in fulfilling the policy of Executive Order 14017?

Answer. USDA conducted a consultation and listening session on “Creating a Tribal Action Plan for Fairer Meat, Poultry, and Seafood Processing” in late January 2022. Through this consultation, USDA solicited tribal input on how USDA could support or help facilitate nationwide, integrated tribal processing infrastructure.

This consultation/listening session spoke to funding made available under the American Rescue Plan Act and the Biden-Harris Administration’s priority in creating an action plan for fairer, more resilient meat and poultry supply chain. USDA mission area leadership from both Marketing and Regulatory Programs and Rural Development, areas principally tasked in USDA for administering these programs served as Consulting Officials on behalf during this session. Specific to Alaska and the Northwest, USDA received significant input on the importance of seafood in processing and supply chain.

Question 1b. What role did your respective offices play in supporting your Agency’s broader outreach on the Executive Order?

Answer. One-year after this Executive Order, USDA published the “USDA Agri-Food Supply Chain Assessment: Programs and Policy Options for Strengthening Resilience,” to identify potential solutions and address vulnerabilities related to the implementation of this Executive Order. The Office of Tribal Relations in the Office of the Secretary contributed to this report with issues specific to Indian Country food systems and supply chains.

USDA’s Marketing and Regulatory Programs recently announced agreements with Flower Hill Institute, a Native-owned community directed non-profit, out of New Mexico, and the Intertribal Agriculture Council, out of Montana, to provide nationwide technical assistance for the development and expansion of value-added infrastructure, furthering resilience in agri-food supply chains.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN TESTER TO
JANIE SIMMS HIPPI

Question 1. How can we ensure that we are promoting competition in our economy while also giving Tribes a fair shot?

Answer. Our trust and treaty responsibility to tribal nations is constitutionally based and legally unique. We were able to obtain the land that now comprises our great nation through the bargain of these treaties. In addition, the United States and state governments created a complex jurisdictional system whereby we have essentially eliminated tribal government tax bases to independently fund their governmental services.

Promoting competition in the market is only possible if there is a market. By empowering tribal and Native owned business and producers within Indian Country we are creating strong markets in which we all prosper. We can promote tribal

economies and tribal producers by promoting preferences on tribal lands and when programs are serving tribal communities.

Question 2. Is there a role for things like Tribal Set-Asides and waiving cost-share requirements in USDA programs that will lift up Tribal producers while also promoting competition?

Answer. Yes. Federal policies have created such an imbalance we can only create a fair competitive market by balancing it back to even it out. Because tribal nations essentially have no tax base, a creation of federal and state government policies, if there is no tribal set-aside or the ability to waive matching-cost share requirements, tribal governments and producers are generally not able to compete and apply for USDA programs.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BRIAN SCHATZ TO
LEXIE HOLDEN

Question 1. You testified that much of Indian Country is a “credit desert,” and that more data about the extent of the disparity is needed to inform policy reforms. What information, specifically, is needed for a comprehensive analysis of Native access to agriculture credit?

Answer. In the formal recommendations submitted by the Native Farm Bill Coalition in 2017 ahead of the 2018 Farm Bill, we included the following:

*The Intertribal Agriculture Council, based on its finding of the existence of “Credit Deserts” in Indian Country, asserts the need for an in-depth analysis by the Government Accountability Office into the nature of credit in Indian Country; specifically examining compliance with the Community Reinvestment Act by banks on and near Indian Reservations.”*¹

What the final language of the 2018 Farm Bill called for instead was a GAO study into Native producers’ access to credit via the Farm Credit System. While such information would be useful to know, the Farm Credit System, and subsequently the data gleaned from this study, would represent merely a subset of the wider issue that is Native American producers’ barriers in accessing ag credit. Additionally, the results of this report have never been published despite it being commissioned in 2018.

We would again like to see a GAO study into the nature of credit in Indian Country, however we need a report which examines all financial institutions including commercial lenders, federal lenders, and Community Development Financial Institutions (CDFIs). We understand that not every lender is equipped to deal with the high-risk, capital intensive industry that is agriculture. For those that are equipped, they might not be prepared to serve Native American producers, whose assets and operations might be “non-traditional” in the eyes of lenders.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BRIAN SCHATZ TO
J. KUKUI MAUNAKEA-FORTH

Question 1. Access to credit is a consistent concern raised by Native stakeholders in the agricultural space. What challenges has MA’O Organic Farms observed or experienced regarding access to funding for Native agriculture ventures in Hawai’i?

Answer. The most prominent hurdles MA’O faces to scaling up are shared by many other Native Hawaiian farmers and ‘āina-based (land-based) organizations (and likely faced by similarly positioned native governed organizations across the US) include:

- Costs related to local and national food-safety certification and compliance are burdensome. The process is time intensive, there is the compliance costs themselves, but there is also the dedication of personnel time to document and complete the paperwork. Technical assistance and expertise is often not available.
- Wrap-around services and resources for native Hawaiian and other BIPOC populations working in ag/farming ventures is not available/inaccessible. There is a lack of sufficient and accessible health, mental well-being, academic and family support resources for native Hawaiian organizations, particularly after the last two years of the pandemic.
- Automation, technology and other innovations for native farmers/agriculturists are unavailable and or inaccessible so that we can scale-up the ag/farming oper-

¹(See Page 71) https://seedsofnativehealth.org/wp-content/uploads/2017/06/Farm-Bill-Report_WEB.pdf

ations. High need and emerging infrastructural needs include energy and water optimization and efficiency. Access to capital to secure better products and services is needed but is often cost prohibitive.

- Other: Affordable Housing. In order for MA'O to scale up its ag venture, there is a need for a stable workforce, particularly for staff and families in rural and native communities. Funding for ag housing projects is extremely difficult to access especially since land is so expensive in Hawai'i.

Question 2. Based on your experience, what recommendations do you have to help address access to funding issues for Native farmers in Hawai'i?

Answer. We know there is precedent for redefining eligibility for USDA programs, and believe that this is necessary to create greater impact for a wide array of Native Hawaiian-led organizations in our state's food system.

- Reinstate the 2005 waiver Section 278-1-A-B-6 that allows any community out of urban HNL to qualify for RD programs, while also expanding it to all islands in the State (not just Honolulu County, island of Oahu) *see copy of 2005 waiver*.
- Allow Hawai'i USDA program applicants to use Department of Hawaiian Home Lands (DHHL) subdivision boundaries to help define location eligibility to better target programs to communities with high concentrations of Native Hawaiians.
- Expand the Substantially Underserved Trust Area (SUTA) program to all USDA programs and specifically recognize proximity to DHHL lands as eligibility for SUTA

In terms of our broader experience with other programs such as ANA or EDA, the same general points of friction pose a challenge to MA'O to make the best use of the program resources and are likely barriers to many other Native Hawaiian-led organizations even attempting to access these programs at all:

- Reporting burden. For small Community Based Organizations (CBO) like MA'O, there is often a misalignment of the RFP expectations for reporting with the reality of time and resources available for reporting. In the past, we have worked to incorporate the program narrative reporting into our workflow, however, financial reporting is still burdensome. Since the pandemic, many of the reports have transitioned into online reporting, however, the access to the portals, the outreach/access to technical assistance, and the obsolete/duplicative processes are still areas they are working on.
- Scarce/scant resources to meet the RFP proposal criteria. To be competitive, 'āina based organizations need access to technical assistance during the proposal writing process. ANA has an excellent model of TA/TTA Centers that are based throughout the US that other agencies could note. Virtual meetings have helped with access to TA but not necessarily with the quality of services to build/develop a competitive proposal.
- Staff turnover, understaffing. When we are lucky enough to receive program funding, staff turnover and understaffing at the federal agency often leaves us with inconsistent guidance on program administration or reporting. We often have to contend with long wait times for guidance and approvals, hampering our ability to deliver outcomes effectively and efficiently, and to meet the deadlines of the grants or loans themselves.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BRIAN SCHATZ TO
WAHLEAH JOHNS

Question 1. You testified that the Department of Energy is not currently implementing its policy establishing a purchasing preference for Tribal energy. What affirmative steps will you take to ensure this policy will be implemented?

Answer. The DOE Office of Indian Energy Policy and Programs (Office of Indian Energy), within the confines of the Tribal Energy Purchase Preference provision, commits to reopen a dialogue within DOE, and between DOE and GSA to develop recommendations that will strengthen the intent of this policy.

Implementation of this policy aligns with the Administration's priorities to support American firms and workers through government procurement, address equity goals, and expand contracting opportunities consistent with the Buy Indian Act.

Question 2. What must be done to establish a purchasing preference for Tribal energy across the federal government, particularly to General Services Administration and the Department of Defense?

Answer. Title V of the Energy Policy Act of 2005 (EPAct 2005) established a Tribal Energy Purchase Preference provision which authorizes Federal agencies to provide preference to qualified Indian-owned organizations for the purpose of purchasing electricity, other energy products, and energy byproducts (so long as the agency does not pay more than prevailing market prices or receive less than prevailing market terms and conditions).

In a May 2011 Decision Memorandum, the Secretary of Energy determined that DOE's policy would focus on a preference for the purchase of energy produced by renewable resources, renewable energy products, and renewable energy by-products. In December 2012, then Secretary Chu issued a Policy Statement allowing DOE sites to conduct limited competitions that include only tribes and tribal enterprises.

Nonetheless, a 2019 GAO report (GAO-19-359) found that no agency had used this preference, and the GAO report recommended,

To the extent that Congress wants to further encourage use of tribally owned energy sources, it should consider amending EPACT05 to **provide more specific direction to federal agencies for implementing the tribal energy preference, to include consideration of additional incentives or requirements.** [Emphasis added]

The GAO report further noted that use of the Tribal Energy Purchase Preference is discretionary.

Based on the above, consideration could be given as to whether the confines of not paying more than prevailing market prices or receive less than prevailing market terms and conditions, are limiting use of the provision. Further, additional consideration could be given to the recommendations of the 2019 GAO report (GAO-19-359) and the discretionary nature of the statute.

Question 3. You testified that an estimated 30,000 Tribal homes currently lack electricity. What is the Department of Energy doing to address this lack of critical infrastructure?

Answer. Within the Department of Energy (DOE), there is a multifaceted approach to address lack of critical infrastructure in Tribal communities. The DOE Office of Indian Energy Policy and Programs (Office of Indian Energy) was recently realigned under the newly formed Office of Infrastructure which gives greater focus and alignment of resources for addressing important tribal infrastructure needs. The Office of Indian Energy continues to support financial and technical assistance opportunities which can directly address many of those needs. Additionally, with the increased budget the Office received under fiscal year 2022 appropriations, the Office of Indian Energy will be able to initiate a multi-year effort focused on remedying that lack of critical infrastructure and providing power to unelectrified homes across tribal communities.

Additionally, there are substantial investments available that stem from the Infrastructure Investment and Jobs Act. Over \$62 billion in resources across 60 new programs are available through DOE with many available to American Indian and Alaska Native communities. The Department of Energy held a Consultation on March 29th, 2022 with every federally recognized Tribe invited. The Consultation event discussed the various programs and opportunities for which tribal communities can apply. To meet this task and better prepare all DOE staff, agency wide training was provided in March 2022, covering tribal history in the United States and best practices for effective working partnerships with Tribal Nations. Increased partnerships with tribal communities must be met with increased awareness and understanding of tribal communities at DOE, and we are taking steps to make that happen.

Because we need better data related to the exact needs, our Office has been tasked by Congress to submit a report on energy access and reliability in Indian Country. Once complete, we look forward to providing more precise data about needs in Indian Country. Tribal involvement is essential to the accuracy of this report and we are contacting tribal communities directly and encouraging participation. Among these efforts included a listening session hosted by the Office of Indian Energy this past November (Energy Access and Reliability on Tribal Lands Listening Session). A second listening session on the report will be held this summer.

Question 4. How does the Department of Energy-Office of Indian Energy Policy and Programs collaborate with Indian Affairs' Division of Energy and Mineral Development to develop coordinated solutions to Tribal energy issues?

Answer. The DOE Office of Indian Energy Policy and Programs (Office of Indian Energy) participates, along with the Department of Interior (DOI) and the DOI Division of Energy and Minerals (DEMD) on the White House Council on Native American Affairs (WHCNA). Prosperity and resilience for all Tribal Nations is the vision

of the WHCNAA and the WHCNAA endeavors to advance this vision through collaborative inter-agency work across the Executive Branch, regular and meaningful Tribal-Federal engagement, and by fostering an all-of-government approach in meeting treaty and trust obligations to Tribes.

Further, the Office of Indian Energy has had a Memorandum of Understanding (MOU) with the DOI Office of Indian Energy and Economic Development, including DEMD, since June 2016. That MOU provides a framework for cooperation in Indian energy issues between the participants. That MOU was amended September 2018 to add the DOI Indian Energy Service Center. In support of this MOU, the DOE Office of Indian Energy participates in monthly calls with the DOI Division of Energy and Minerals and the DOI Indian Energy Service Center to coordinate and collaborate on mutual issues. The DOE Office of Indian Energy also participates in Federal Partner calls hosted by the DOI Indian Energy Service Center. The Office of Indian Energy also uses its website and electronic newsletter (20,000+ subscribers) to disseminate opportunities, upcoming events, and services provided by DEMD, as well as tribal energy related information from many other federal agencies and offices.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. LISA MURKOWSKI TO
WAHLEAH JOHNS

Question 1a. On February 24, 2021, President Biden issued Executive Order 14017 “America’s Supply Chains.” Executive Order 14017 directs the Administration to support a resilient, diverse, and secure supply chain that is able to withstand pandemics and other biological threats, cyber-attacks, climate shocks and extreme weather events, terrorist attacks, geopolitical and economic competition, and other conditions that can reduce critical manufacturing capacity. The Executive Order requires Agency heads to consult outside stakeholders—such as those in industry, academia, non-governmental organizations, communities, labor unions, and State, local, and Tribal governments. Can you discuss how your Agency have consulted with Tribal governments, and relevant stakeholders in fulfilling the policy of Executive Order 14017?

Answer. In response to Executive Order 14017, “America’s Supply Chains,” 86 FR 11849 (February 24, 2021) the Department of Energy issued a Request for Information (RFI) on November 18, 2021. Responses received from the RFI informed the February 24, 2022 report, America’s Strategy to Secure the Supply Chain for a Robust Clean Energy Transition as summarized on the DOE website. This DOE energy supply chain strategy report summarizes the key elements of the energy supply chain as well as the strategies the U.S. Government is starting to employ to address them. Additionally, it describes recommendations for congressional action. Tribal governments and other constituents were consulted through the RFI process, and further stakeholder and tribal engagement are planned relative to sections of the report.

Question 1b. What role did your respective office play in supporting your Agency’s broader outreach on the Executive Order?

Answer. The Office of Indian Energy Policy and Programs provided guidance to the Department on best practices to building relationships with tribal nations.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MIKE ROUNDS TO
WAHLEAH JOHNS

Tribal Energy

Question 1. The ancestral knowledge held by indigenous peoples reflects a keen understanding of science and engineering based on thousands of years of living with nature’s regenerative cycles. As the world grapples with how to meet our energy needs using renewable resources, native peoples can utilize this knowledge to serve their communities and neighbors while also serving as a source for economic development and innovation. What kind of collaboration currently exists between the Departments of Energy and the Department of Interior to support tribes in accessing capital and building capacity to own and operate large-scale energy projects to generate electricity and create fuels for transportation, including biofuels and hydrogen? Should USDA, Interior, DOE and DOD be collaborating to purchase Native American energy and build economic capacity in Indian country and address National Defense at the same time?

Answer. Regarding collaboration, the DOE Office of Indian Energy Policy and Programs (Office of Indian Energy) participates, along with the Department of Interior

(DOI) on the White House Council on Native American Affairs (WHCNAA). The WHCNAA endeavors to advance this vision through collaborative inter-agency work across the Executive Branch, regular and meaningful Tribal-Federal engagement, and by fostering an all-of-government approach in meeting treaty and trust obligations to Tribes. The Energy Subcommittee of the WHCNAA Economic Development, Energy, and Infrastructure Committee is developing an Access to Capital Working Group among the participating agencies.

Further, the Office of Indian Energy has had a Memorandum of Understanding (MOU) with the DOI Office of Indian Energy and Economic Development since June 2016. That MOU provides a framework for cooperation in Indian energy issues between the participants. That MOU was amended September 2018 to add the DOI Indian Energy Service Center. In support of this MOU, the DOE Office of Indian Energy participates in monthly calls with the DOI Division of Energy and Minerals and the DOI Indian Energy Service Center to coordinate and collaborate on mutual issues. The DOE Office of Indian Energy also participates in Federal Partner calls hosted by the DOI Indian Energy Service Center.

Regarding collaborating with USDA, Interior, and DOD to purchase Native American energy and build economic capacity in Indian country and address National Defense at the same time, the DOE Office of Indian Energy welcomes the opportunity and will initiate dialogue towards that end.

HEARTH Act

Question 2. Many business projects and energy projects involve rights of way, easements, or leases of land. Infrastructure projects, much of which facilitate economic development on Tribal lands (such as broadband projects), also can include the need for rights-of-way or easements. Unfortunately, the process when needing BIA approval of such can be slow and arduous. With the Infrastructure Act's resources now getting out to Tribes to put to use on their lands, can the Bureau put into place an expedited process for obtaining approved rights-of-way, easements, and leases? What does the Bureau need from this Committee to facilitate such an expedited process? In terms of leasing, can you address my question for those tribes with HEARTH Act ordinances and also for those tribes without HEARTH Act ordinances?

Answer. DOE Office of Indian Energy Policy and Programs cannot speak on behalf of the Department of Interior Bureau of Indian Affairs (BIA). We respectfully request those questions be posed to BIA.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BEN RAY LUJÁN TO WAHLEAH JOHNS

Question 1. Last June, Secretary Granholm testified in front of the Senate Committee on Energy and Natural Resources. In this hearing, Senator Kelly asked the Secretary about the \$2 billion Congress provided to the Department of Energy in 2005 to establish the Tribal Energy Loan Guarantee Program to support Tribally owned renewable energy projects.

As of June 2021, no loans had been issued under this program. We have been told that the Department of Energy is working on getting the funds out to eligible loan recipients, and we are hopeful that Congress' recent authorization of direct federal lending in the Fiscal Year 2022 Omnibus will have a positive impact on loan accessibility.

This is loan program is very important for developing Tribally owned renewable energy projects in New Mexico and across the country.

Ms. Johns, can you provide an update to the committee on these efforts?

Answer. The Department of Energy and the DOE Office of Indian Energy understand the importance of the Tribal Energy Loan Guarantee Program for developing Tribally owned renewable energy projects in New Mexico and across the country. The Tribal Energy Loan Guarantee Program is being implemented by DOE's Loan Programs Office (LPO) which has experience in administering direct loan and loan guarantee programs. We are working closely with this office to provide constant outreach to tribes related to the opportunity provided by the Tribal Energy Loan Guarantee Program and held jointly with LPO the DOE Roundtable Discussion on Funding and Financing Tribal Energy Projects May 2021.

DOE's LPO program confirms that DOE supports the Fiscal Year (FY) 2022 Omnibus language to allow the Tribal Energy Loan Guarantee Program (TELGP) applicants access to direct loans from DOE via the United States Treasury Federal Financing Bank (FFB). DOE plans to issue a solicitation supplement incorporating FY22 direct loan authority and is actively moving forward with interagency proc-

esses to establish the direct loan program through TELGP. The Department is publicizing this important change to ensure the Tribal community knows about the new authority through Tribal stakeholder events, communications, and outreach. The FY22 Omnibus language only provides direct loan authority through FY 2022. The Administration supports continuing in FY 2023 the language enacted by Congress in the Consolidated Appropriations Act, 2022, that broadens TELGP authority to allow applicants to apply to LPO for direct loans via FFB.

In April 2021, the Department of Energy Office of Indian Energy held a roundtable on funding and financing Tribal energy projects, which resulted in several recommendations the Department could implement on its own to improve the Tribal Energy Loan Guarantee Program, which the Department is in the process of doing through the issuance of a revised solicitation.

Question 2. In 2021, the Department of Energy Office of Indian Energy held a roundtable on funding and financing Tribal energy projects, which resulted in several recommendations the Department could implement on its own to improve the Tribal Energy Loan Guarantee Program. These recommendations included funding more energy development projects, changing the program's credit rating requirements, and modeling the application process after the Bureau of Indian Affairs Indian Loan Guarantee Program.

Ms. Johns, what is the status of these recommendations made to the Office of Indian Energy? Have any been incorporated or does the Department have plans to do so?

Answer. The Loan Programs Office is preparing to issue a significant amendment to the TELGP solicitation that is intended to address comments received from tribes, lenders and other stakeholders. These changes will clarify ownership requirements, lending obligations, and fees and are expected to increase interest in and accessibility to TELGP loan guarantees.

Question 3. Ms. Johns, what steps has the Department taken to streamline business processes and remove barriers to energy development on Tribal lands for Native enterprises?

Answer. The DOE Office of Indian Energy's statute supports all federally recognized Indian tribes, including Alaska Native Village and Regional Corporations, tribal energy development organization, and intertribal organizations. Based on those statutory responsibilities, our focus really is on energy development and not specifically economic development or business development. The majority of tribal energy projects funded by the Office of Indian energy have been for facility and community scale and although there may be local savings, most are not for the export of energy for revenue generation as would be the case for utility scale energy projects.

While Native enterprises are not directly eligible by statute, many have benefited from technical assistance as well as financial assistance. Specifically, the Office of Indian Energy has provided funding to make Tribal businesses more efficient, including parking garage light efficiency upgrades for Forrest County Potawatomi Nation of Wisconsin. We have worked with Coeur d'Alene Tribe and Pribilof Islands Aleut Community of St. Paul Island to upgrade efficiency and energy use at grocery stores.

These are just a few examples of tribal businesses engaging with the Office of Indian Energy. While the Office of Indian Energy does not partner with individually owned businesses, we understand that that affordable and reliable energy access in tribal communities creates a foundation for continued economic potential and progress.

Relative to the TELGP, the forthcoming amended TELGP solicitation referenced in A3 above will provide a more streamlined approach to accessing the TELGP program for tribes working through an established lender. In addition, the FY 2022 Omnibus language allowing TELGP applicants access to direct loans from DOE via FFB, will obviate the need for a partial guarantee of a commercial lender, streamline Tribes' access to capital, and increase interest in and accessibility to TELGP. The Administration supports continuing in FY 2023 the language enacted by Congress in the Consolidated Appropriations Act, 2022, that broadens TELGP authority to allow applicants to apply to LPO for direct loans via FFB. Continuing the authority will ensure the greatest impact and that tribes have sufficient time to complete the application processes for projects in the early stages of development.

Question 4. Ms. Johns, how is the Department of Energy looking to increase lending and investment opportunities for Native businesses, and how is it conducting proactive outreach to Tribes and Native enterprises?

Answer. The DOE Office of Indian Energy is working closely with the Loan Program Office to provide constant outreach to tribes related to the opportunity provided by the Tribal Energy Loan Guarantee Program.

DOE's Loan Program Office (LPO) has been working with a number of Native American organizations to increase awareness and understanding of the Tribal Energy Loan Guarantee Program. LPO has participated in several conference roundtables and webinars with the Native American Financial Officers Association (NAFOA), and is planning events to address special topics related to energy finance, such as the use of tax-equity. LPO also participates in conference roundtables with the National Center for American Indian Enterprise Development (NCAIED) through their annual Reservation Economic Summit (RES). LPO also done outreach to Alaskan native communities by attending the Alaskan Federal of Natives (AFN) conference and maintain an active outreach presence in Alaska through coordination with the DOE Alaska Energy Office. The engagement of potential TELGP lenders and borrowers by DOE's newly organized Outreach and Business Development Division has resulted in receiving the program's first application in 2021. LPO continues to solicit feedback as appropriate to better serve tribes' needs, consistent with LPO's authority.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BRIAN SCHATZ TO
WIZIPAN GARRIOTT

Question 1. You testified that the Department of the Interior is analyzing impediments and barriers in the agricultural leasing area in preparation for potential amendments to the BIA's Agricultural Leasing and Permitting Regulations. Can you describe the main impediments and barriers identified to date?

Answer. The impediments and barriers to agricultural leasing range from several sources including staffing and authority to processes and land itself. Below is a brief explanation of the top impediments to agricultural leasing:

1. Staff Shortage for the Bureau of Indian Affairs (BIA).
 - a. Currently 81 Realty positions are vacant and being advertised for recruitment.
 - b. Agency employees routinely wear several hats. For example, a compliance technician in one Agency also assesses trespass, reviews expired leases, and obtains Global Positioning System (GPS) coordinates of farm fields.
 - c. The position of soil conservationist, a position that completes assessments based on the type of lease, soils, crop productions, farm payments, noxious weed identification and lease history, is also vacant in many Regions and Agencies.
 - d. Staffing levels of Natural Resource professionals and technicians continue to decline in the BIA.
2. Delay in services.
 - a. Any delay in valuation services also delay the setting of minimum bids on advertised leases.
3. Limited BIA compliance and enforcement capabilities.
 - a. Trespass policies need to be revised and additional compliance staff hired.
 - b. Enforcement capabilities on violations, i.e., hunting on agricultural leases, trespass, dumping, etc., need to be strengthened.
4. Fractionation.
 - a. Fractionated lands pose a barrier in getting information to landowners and producers on type of services offered through United States Department of Agriculture (USDA)/Farm Service Agency.
 - b. Coordination between federal partners needs to be improved as USDA focuses on the needs of agricultural producers, and the BIA focuses on the needs of the landowner.
5. Agricultural Lease terms are too short (5 years) to obtain USDA services.
 - a. Some USDA programs that can benefit Indian lands, beneficiaries, and producers have a life span of 10 years or more. In most cases, a producer must demonstrate that they have control of the lease or permit for one year prior to the 10-year term of the program. BIA leases and permits are issued for 5 or 10-year terms. Therefore, a producer who holds a 10-year lease would

never be able to take advantage of a 10-year program at any time during the life of their lease.

6. In western states, lack of sufficient acreage and water for agricultural purposes.

a. The lack of water and the increase of climate change is impeding factor for the development of various leases.

Question 2. When does the Department of the Interior intend to begin working on amendments to the BIA's Agricultural Leasing and Permitting Regulations?

Answer. In May of this year, the Department of the Interior (Department) completed draft regulations and scheduled Tribal Consultation Sessions for 25 Code of Federal Regulation (CFR) Part 151 (Land Acquisition) and Part 293 (Class III Tribal State Gaming Compact Process).

Next the Department will draft updates to Part 162, Leases and Permits (which includes Agricultural, Residential, Business, as well as Wind and Solar). The Department would also like to update Parts 211, Leasing of Tribal Lands for Mineral Development, and Part 212 Leasing of Allotted Lands for Mineral Development.

Question 3. You testified that, aside from the BIA's Agricultural Leasing and Permitting Regulations, Tribes can use the HEARTH Act to exercise their own agricultural leasing authority. How many Tribes are currently using HEARTH Act authority to issue agricultural leases? What can be done to increase the number of Tribes exercising agricultural leasing authority under the statute?

Answer. Sixteen (16) Tribes have approved HEARTH Act regulations for Agriculture Leasing, one (1) Tribe's regulations are presently pending Secretarial approval, and three (3) Tribes have newly submitted applications.

The Secretary of the Interior encourages all Tribes interested in the HEARTH Act to submit their regulations to the BIA. The decision for a Tribe to draft, adopt, and submit for approval of agricultural leases lies with each Tribal nation. However, to increase the number of HEARTH Act Tribes, in October 2019, the BIA offered HEARTH Act information and training to Tribes, and groups consisting of or serving Tribal governments, including the National Congress of American Indians, USDA's Rural Development, the United States Department of Housing and Urban Development (HUD) Office of Native American Programs, the National Tribal Land Association, as well as BIA Regional and Agency Offices.

Question 4. You testified that expansion of the HEARTH Act to affirm Tribes' authority to issue rights-of-way would go a long way toward removing barriers to Tribal energy development. Are there other specific HEARTH Act improvements that can be made to remove barriers to Tribal economic development?

Answer. The HEARTH Act covers 25 CFR Part 162, Leases and Permits (agriculture, residential, business, and wind and solar resources). It does not apply to Part 169, Rights-of-Way over Indian Land. Tribal economic development could be facilitated if Tribes had the ability to approve, manage, and enforce rights-of-way in a similar fashion that HEARTH Act Tribes can control Part 162 leases and permits.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. LISA MURKOWSKI TO
WIZIPAN GARRIOTT

Question 1. On February 24, 2021, President Biden issued Executive Order 14017 "America's Supply Chains." Executive Order 14017 directs the Administration to support a resilient, diverse, and secure supply chain that is able to withstand pandemics and other biological threats, cyber-attacks, climate shocks and extreme weather events, terrorist attacks, geopolitical and economic competition, and other conditions that can reduce critical manufacturing capacity. The Executive Order requires Agency heads to consult outside stakeholders—such as those in industry, academia, non-governmental organizations, communities, labor unions, and State, local, and Tribal governments. Can you discuss how your Agency has consulted with Tribal governments, and relevant stakeholders in fulfilling the policy of Executive Order 14017?

Question 1a. What role did your respective office play in supporting your Agency's broader outreach on the Executive Order?

Answer. The Department has not yet conducted specific consultations on this topic. To date, the Department has taken actions to increase acquisitions that promote broader use of the Buy Indian Act. Advancing use of the Buy Indian Act for acquisition advances Buy American acquisition goals. This includes holding consultations as part of the effort to update of Buy Indian Act regulations. Further, the Department is actively advancing use of Build America, Buy America (BABA) re-

quirements included in the Bipartisan Infrastructure Law and will participate in an interagency Tribal consultation on September 21, 2022, on BABA implementation.

Question 2. The Indian Loan Guarantee and Insurance Program (ILGP) plays an important role in providing financing for hard to reach areas of Indian country, where a project may not be economically viable under traditional financing models. Over the last 5 years the BIA ILGP has approved over \$123 million in loans in Alaska. Nearly half of that amount, approximately \$60 million, were approved during the pandemic.

The SBA offers federally guaranteed loans similar to the Indian Loan Guaranteed Program at BIA. As a part of the CARES Act, SBA is authorized to pay six months of principal, interest, and any associated fees that borrowers owe under SBA loans. Can you discuss what impact the pandemic has had on tribal small businesses funded through the ILGP?

Answer. Indian Country has been impacted by the pandemic just as much as non-Indian communities. Moreover, because many Indian communities are in geographically remote locations, there often are fewer resources available to address illness, worker shortages, supply chain disruptions and increased costs. Many Indian-owned small businesses impacted by the pandemic have struggled to meet their financial obligations, and a number of those supported by the ILGP have sought to adjust their loan terms to survive.

Question 2a. How many loans were approved under the ILGP during the pandemic? What is the default rate on those loans?

Answer. Since March 2020, the ILGP has approved 37 guaranteed loans and 56 insured loans. To date there have been no defaults on ILGP supported loans during this period.

Question 2b. What authorities are available to the Division of Capital Investment, to provide assistance for Tribal Small Business owners in the ILGP (or ILGP recipients generally)?

Answer. The Secretary of the Interior's authority concerning the ILGP, as delegated to the Division of Capital Investment (DCI) in the Department Manual, is primarily reflected in 25 U.S. C. § 1496, Powers of Secretary; finality of financial transactions and property acquisitions, management, and dispositions. Subsection (b), which permits modification of loans, was particularly helpful for lenders and borrowers.

Question 2c. Would the Division of Capital Investment benefit from having the same type of loan payment assistance authority that was granted to the SBA under the CARES Act? If so, please explain.

Answer. Yes. Indian country has suffered severe economic hardship since the rise of COVID-19, and the ILGP has had no additional resources to assist its borrowers. Although the Small Business Administration (SBA) offers loan guarantees that appear similar to those of the ILGP, SBA's guarantees pursue somewhat different objectives and do not overlap significantly with those of the ILGP. Many of the Indian businesses helped by ILGP guarantees and insurance are either outside the urban focus of the SBA or require financial structures that do not meet SBA guidelines.

For example, the ILGP honors leasehold mortgages on trust property as both equity and as collateral, whereas SBA does not. This fact alone prevents many Indian businesses from using SBA guarantees. The fear of lending in Indian Country stems from unfamiliar Federal or Tribal laws, or the need to employ Tribal court systems accompanied with an assumption of the Tribal court could derail the otherwise routine pursuit of collateral liquidation.

The SBA serves a very important function in the U.S. economy, and the support it received under the CARES Act was absolutely essential to its mission. However, the SBA loan support has deployed CARES Act support primarily to Indian-owned businesses in urban areas, typically outside of the boundaries of a Tribal service area. By their definition, Indian business ownership may include State-recognized Tribes and their members. It is also unclear the extent to which SBA confirms Indian ownership, whether based on State or Federal recognition, when reporting its statistics. Borrowers supported by the much smaller ILGP have not received similar assistance, they represent a segment of U.S. businesses that could not benefit from the CARES Act help provided to SBA. ILGP guaranteed and insured borrowers would be greatly relieved to receive comparable assistance; the continued existence of some of these businesses may depend on it.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. BEN RAY LUJÁN TO
WIZIPAN GARRIOTT

DOI Facilitation of and Cross-Agency Coordination for Broadband Programs

Question 1. Mr. Garriott, I am particularly concerned about broadband coordination regarding easements and licenses granted by federal agencies beyond those familiar with broadband infrastructure. How can the Bureau of Indian Affairs, Bureau of Land Management, U.S. Forest Service and others facilitate broadband projects that rely on new or existing easements over trust or public lands?

Answer. Existing easements over trust or public lands may have different, non-governmental grantees and may cross numerous land statuses that could include lands managed by the BIA, BLM, U.S. Forest Service, states and municipalities. It can also be difficult for Tribes to work with each of the federal agencies' regulatory requirements for ROWs. Facilitating multi-agency broadband projects requires planning and coordination. Interagency collaboration to facilitate broadband projects, identify funding opportunities, and streamline the processes for these projects would benefit Tribes and the federal agencies working with them. The Department's Bureau of Land Management (BLM) is one of the leaders of the interagency American Broadband Initiative and is also collaborating with the Federal Permitting Improvement Steering Council (FPISC) to examine opportunities to promote more consistent and streamlined permitting processes which would benefit broadband projects.

