

**ADVANCING TRIBAL SELF-
DETERMINATION:
EXAMINING THE OPPORTUNITIES AND
CHALLENGES OF THE 477 PROGRAM**

OVERSIGHT HEARING

BEFORE THE
SUBCOMMITTEE ON INDIAN AND INSULAR AFFAIRS
OF THE
COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED EIGHTEENTH CONGRESS
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**OVERSIGHT HEARING ON ADVANCING
TRIBAL SELF-DETERMINATION: EXAMINING
THE OPPORTUNITIES AND CHALLENGES
OF THE 477 PROGRAM**

**Wednesday, March 20, 2024
U.S. House of Representatives
Subcommittee on Indian and Insular Affairs
Committee on Natural Resources
Washington, DC**

The Subcommittee met, pursuant to notice, at 2:28 p.m., in Room 1324, Longworth House Office Building, Hon. Harriet M. Hageman [Chairwoman of the Subcommittee] presiding.

Present: Representatives Hageman, Carl, LaMalfa; and Leger Fernández.

Ms. HAGEMAN. The Subcommittee on Indian and Insular Affairs will come to order. Without objection, the Chair is authorized to declare a recess of the Subcommittee at any time.

The Subcommittee is meeting today to hear testimony on Advancing Tribal Self-Determination: Examining the Opportunities and Challenges of the 477 Program. Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chairman and the Ranking Minority Member. I therefore ask unanimous consent that all other Members' opening statements be made part of the hearing record if they are submitted in accordance with Committee Rule 3(o).

Without objection, so ordered.

I will now recognize myself for an opening statement.

STATEMENT OF THE HON. HARRIET M. HAGEMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WYOMING

Ms. HAGEMAN. Today, the Subcommittee will hear testimony on Advancing Tribal Self-Determination: Examining the Opportunities and Challenges of the 477 Program. This continues the Subcommittee's focus on tribal autonomy and the ways Congress can support tribal self-determination, which has been one of the priorities that we have pursued over the last year since I have been Chairman of this Subcommittee.

In 1992, the Indian Employment Training and Related Services Demonstration Act was signed into law. The Act authorized a demonstration program that enables tribes to coordinate and integrate multiple Federal programs focused on employment and related support services into one program with one budget and one annual report. We now know this program as the 477 Program, referencing the public law number that established it.

Over the past three decades, the 477 Program has been highly successful. Current statistics show 78 active 477 Plans across 38

Federal programs representing approximately 300 tribes. Tribes continue to use and integrate new Federal programs into their tribal 477 Plans citing the benefits of budget flexibility, reduced inefficiencies, and ability to prioritize the programs that best help their tribal members.

When a tribe seeks to establish a 477 Program, tribal members seeking to gain job skills or find better employment can often fill out one form and go through one process rather than needing to apply to multiple programs and to fill out multiple forms. This flexibility and streamlined reporting allows these 477 Programs to focus more on providing assistance and guidance to tribal members rather than spending those resources on multiple burdensome reporting requirements.

In 2017, Congress passed the Indian Employment Training and Related Services Consolidation Act of 2017, which made the 477 Program permanent, expanded the number of eligible secretarial departments to 12, and cemented the Bureau of Indian Affairs' role as the lead agency for the 477 Program through the Division of Workforce Development. The 2017 amendments also required a Memorandum of Agreement, or MOA, to be completed by all 12 secretarial departments outlining how the law would be implemented.

However, the first MOA released in 2018 was released and signed by all parties without any tribal consultation. It was also criticized by both tribes and the Members of Congress as something that did not follow the intent and letter of the 2017 amendments. A new MOA was written and finalized with tribal input in 2022 and all 12 secretarial departments signed the new MOA and the BIA and tribes are now in the process of implementing and operating under it.

This Subcommittee has heard concerns from tribes related to the implementation of the 2022 MOA, particularly with adding new programs to a tribal 477 Program and ongoing challenges of 477 Program funds not being released to the tribes in a timely manner. I will also mention that the American Indian Population and Labor Force Report has not been published biannually, as required by law, since the responsibility was moved by the 2017 amendments from the BIA to the Department of Labor.

I look forward to a robust discussion today about some of the challenges the tribes have encountered when they seek to expand their 477 Programs. I want to thank the witnesses for being with us today and look forward to continuing the conversation on improving tools that are available to support tribal self-determination.

The Chair now recognizes the Ranking Minority Member for her statement.

STATEMENT OF THE HON. TERESA LEGER FERNÁNDEZ, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW MEXICO

Ms. LEGER FERNÁNDEZ. Thank you very much, Madam Chair, for holding this hearing, and thank you to each of our witnesses for coming to DC, I traveled with some of you, to share your stories and experience because it is essential that we hear directly by

those who are most impacted about both the obstacles and what it means when those obstacles are removed.

Public Law 102-477 really allows tribes to work with the Department of the Interior to consolidate Federal funding and programs for employment and training across 12 separate agencies and manage under one 477 Plan. We have heard repeatedly how important this is because we should not limit ourselves just to the Department of the Interior or IHS. There are so many other ways in which tribes interact with the Federal Government and we must incorporate them and encourage tribes to take over this because they know best how to handle issues on their own reservations and for the people that are their constituents.

In this Subcommittee, we often hear about the administrative burdens tribes face in accessing those Federal programs and funding. The 477 Program is one of those key programs to address that issue of accessing Federal programs and it can considerably lower the administrative burden tribes face and simplify the reporting process. The program gives tribes the authority to design and implement workforce development and job training programs that can address critical workforce needs in the communities and ultimately support tribal self-determination.

The program's track record of success has led to the Department of the Interior overseeing 78 477 Plans representing 298 federally recognized tribes. Over half of all federally recognized tribes are using this program. In my home state of New Mexico, the Pueblo Laguna was one of the first tribes in the state to use the 477 Program, and I know of its success there. They have used it to provide work experience opportunities to youth, train and certify more teachers, and support vocational rehabilitation services for their community.

In 2022, the Biden administration renegotiated the interagency Memorandum of Agreement on the implementation of the program. This new MOA resulted in an increase in proposals for the 477 Program. The 2022 MOA streamlined plan approvals and reaffirmed the authority of the Secretary of the Interior to approve those 477 Plans. And most importantly, the agencies worked directly with tribes and incorporated feedback from the tribes themselves, which sounds like it would be a no brainer to do that, right? This is about providing you with the funds you need to carry out this workforce training. Unfortunately, as the Chair noted, the prior administration had not incorporated and conducted this consultation when that was negotiated in the 477 in 2018.

I look forward to hearing from the tribal witnesses here today regarding the impact of the program and success stories we can build on. I also know there have been issues with certain agencies following the intent of the law and that there have been delays and that those delays directly impact tribes trying to provide these services. I want to make sure that we engage and are honest about those challenges and how things like actually talking about it out loud can sometimes unstick things, right? I say in my office that we are the WD-40 for Federal agencies and that WD-40 should be applied liberally because too many things get stuck, don't they, Madam Chair?

So, the 477 Program should be a model to follow across all agencies to ensure programs work efficiently for tribes and that we are indeed supporting economic development and tribal self-determination throughout Indian Country.

Thank you again to all the witnesses and thank you for holding this hearing, Madam Chair.

I yield back.

Ms. HAGEMAN. Thank you very much. And now I will introduce the witnesses for our panel. The Honorable Bryan Newland, Assistant Secretary for Indian Affairs, Department of the Interior, Washington, DC. You probably sometimes feel like you live here. Maybe there is a sleeping bag under the desk up here. But thank you for coming back and keeping us informed of what is going on with your agency.

The Honorable Billy Friend, Chief, Wyandotte Nation, Wyandotte, Oklahoma. Thank you for being here.

The Honorable Lee Spoonhunter, Co-Chair, Northern Arapaho Business Council, Ethete, Wyoming. It is always wonderful to have you testifying before our Committee.

And Margaret Zientek, Co-Chair, P.L. 102-477 Tribal Work Group, Shawnee, Oklahoma. Welcome. We appreciate you being here and look forward to hearing your testimony.

Let me remind the witnesses that under Committee Rules, they must limit their oral statements to 5 minutes, but their entire statement will appear in the hearing record. To begin your testimony, please press the "talk" button on the microphone. We use timing lights. When you begin, the light will turn green. When you have 1 minute left, the light will turn yellow. And at the end of 5 minutes, the light will turn red, and I will ask you to please complete your statement. I will also allow all witnesses on the panel to testify before Member questioning.

The Chair now recognizes the Honorable Bryan Newland for 5 minutes.

STATEMENT OF THE HON. BRYAN NEWLAND, ASSISTANT SECRETARY FOR INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR, WASHINGTON, DC

Mr. NEWLAND. Thank you, Madam Chair. Good afternoon, Chair Hageman, Ranking Member Leger Fernández, and members of the Subcommittee.

My name is Bryan Newland. I have the privilege of serving as the Assistant Secretary for Indian Affairs at the Department of the Interior, and I appreciate the opportunity to share the Department's views on Public Law 477 today.

As you know, Madam Chair, this law allows tribes to consolidate Federal funding from 12 agencies across the Federal Government for employment, training, and related services. This law empowers tribes to provide holistic services to clients through a one-stop shop model that is consistent with self-determination. Tribes with approved plans under Public Law 477 have reported a significant reduction in their administrative burdens which allows them to focus on service delivery.

The Department is proud of the success we have had working with Federal partners and tribal leaders to advance self-

determination under this law. In October 2022, each of the Federal partners signed an interagency Memorandum of Agreement that conforms to the statute and reflects the Administration's commitment to supporting tribal sovereignty. We work to ensure that tribes participated in the development of that MOA.

This new agreement streamlines plan approval procedures and reaffirms the Secretary of the Interior's authority to approve tribal plans under Public Law 477. This approach supports tribal sovereignty and self-determination, it helps reduce joblessness in Indian Country, it streamlines service delivery, and it improves Federal customer service. After renegotiation of that agreement, the Department has facilitated an agreement now on 26 new 477 Plans, and as of today, the Department oversees 78 477 Plans from 298 tribes, more than half of all federally recognized tribes in the country.

Following the renegotiation of the MOA, tribes have integrated programs from 7 of the 12 eligible Federal agencies into 477 Plans. This law is beneficial for tribes because it consolidates funding streams to a single point of access at the Department as well as reporting requirements from each of the Federal programs included in the tribal plan. Tribes with 477 Plans submit a single report under use of integrated funds rather than multiple reports to multiple agencies for multiple programs. This reduces the duplication of services and allows for the central valuation of programs.

The 477 model of consolidated funds and streamlining reporting has been a success. Participating tribes have stated that it is the best delivery system for those programs, meets their unique needs, while also allowing for appropriate oversight. And, Madam Chair, as you noted at this Subcommittee's recent hearing, the last time I was here a couple of weeks ago, this principle of self-determination allows tribes to engage in economic development in a way that meets their basic and best interests.

While the Department is proud of the success that the Federal partners have achieved in implementing this law, we have identified the areas for potential growth and refining of Public Law 477. First, under the law, the Department expects Federal partners to transfer funds within 30 days of approval of their 477 Plan. A delay in transferring funds may hamper tribes' ability to deliver services to their citizens.

Second, the number of Federal programs integrated in the 477 Plans has grown significantly. As the lead agency under Public Law 477, the Department is responsible for helping Federal partners implement this law. Just this year, we are providing technical assistance to 29 tribes and we are engaged in discussions with two new agencies regarding integration of their programs into Public Law 477, and it is a challenge to keep pace with the significant growth in this program.

Finally, Public Law 477 is limited in scope. Only programs implemented for certain purposes related to employment, training, and related services may be integrated into Public Law 477. One of the biggest challenges we face in implementing this law is determining whether a program is eligible. Public Law 477 empowers tribes to improve the effectiveness of their programs, it reduces joblessness in Indian Country, and it serves tribal goals consistent with the

policy of self-determination, and it does all of this while reducing administrative, reporting, and accounting costs.

Madam Chair, Ranking Member, members of the Subcommittee, I want to thank you again for the invitation to be here, it is always a pleasure, and I look forward to answering any questions you may have.

[The prepared statement of Mr. Newland follows:]

PREPARED STATEMENT OF BRYAN NEWLAND, ASSISTANT SECRETARY FOR INDIAN AFFAIRS, UNITED STATES DEPARTMENT OF THE INTERIOR

Aanii (Hello)! Good afternoon, Chair Hageman, Ranking Member Leger Fernández, and members of the Subcommittee. My name is Bryan Newland, and I am the Assistant Secretary for Indian Affairs at the U.S. Department of the Interior (Department or DOI). Thank you for the opportunity to discuss opportunities and challenges of Public Law 102-477 as amended (PL 477).

Background on PL 477

PL 477 allows Tribes to consolidate Federal funding from any of twelve agencies for employment, training, and related services programs based on a showing that a Tribe is implementing the funding for that purpose. PL 477 empowers Tribes to provide holistic service to clients through a “one-stop shop” model, a model especially poignant for clients who would benefit from assistance to support their continued employment, training, and self-sufficiency goals. Tribes with approved plans under PL 477 (477 plans) have reported a significant reduction of their administrative burden due to the consolidated funding streams and reporting requirements, which allows them to focus more on direct service delivery.

In passing Public Law 102-477 in 1992 (1992 Act), Congress intended to reduce unemployment in Tribal communities by creating employment opportunities consistent with the principle of Tribal self-determination. The 1992 Act was also intended to increase the effectiveness of employment and training programs by reducing and streamlining administrative requirements through the consolidation of budgeting, reporting, and auditing systems. However, the 1992 Act was only a demonstration project and applied only to programs of the Departments of the Interior, Labor, Education, and Health and Human Services.

In 2000, Congress amended the 1992 Act to allow Tribes and Tribal organizations more flexibility to use their funds for employment creation and to provide clarity on waiver requests in Tribal plans. In 2017, Congress again amended the law in the Indian Employment, Training and Related Services Consolidation Act of 2017 (P.L. 115-93) (2017 amendments). Congress made clear that the purpose of PL 477 is to facilitate the ability of federally recognized Tribes and Tribal organizations to integrate the eligible employment, training, and related services they provide from different Federal sources, and is aimed at reducing administrative, reporting, and accounting costs. Congress also directed that the Department deliver any integrated PL 477 funding to a Tribe under contracting or compacting mechanisms established by the Indian Self-Determination Education and Assistance Act (P.L. 93-638) (ISDEAA).

Most notably in the 2017 amendments, Congress made the demonstration project permanent, and expanded PL 477 to include eligible programs from the Departments of Agriculture, Commerce, Energy, Homeland Security, Housing and Urban Development, Transportation, Veterans Affairs, and Justice. Today, there are twelve Federal Departments that are authorized to participate in PL 477 (Federal partners).

Interagency Memorandum of Agreement

The 2017 amendments directed the Federal partners to enter into a Memorandum of Agreement (MOA) that governed implementation of PL 477. In the last Administration, the Federal partners signed an MOA that was written without Tribal consultation and was signed over the objection of Tribes. Tribal governments sought renegotiation of the MOA for several years thereafter.

In response, in October 2021, Vice President Harris committed that the Biden Administration would “renegotiate this agreement to support Tribal sovereignty.” After months of coordination with Tribes and Federal partners, in October 2022, each of the Federal partners signed an updated MOA that conforms closely to the statute and reflects the Administration’s commitment to supporting Tribal sovereignty.

The new MOA streamlines plan approval procedures and re-affirms the decisional authority of the Secretary of the Interior regarding Tribal PL 477 plan approval. This approach serves Tribal needs and furthers key Administration policies, such as encouraging Tribal sovereignty and self-determination to reduce joblessness in Indian Country, streamlining service delivery, and improving Federal customer service.

At present, the Department is working with Federal partners and Tribes to update the annual reporting form that Tribes use after they have integrated their programs through PL 477. The Department looks forward to sharing more information upon completion of a consensus draft.

PL 477 Implementation and Successes

The Department is proud of the success we and our Federal partners have achieved by promoting Tribal self-determination under PL 477. Executive Order 14112 (EO) builds on this success and furthers it by directing us to ensure that Federal programs provide Tribal Nations flexibility to improve economic growth, address the specific needs of their communities, and realize their vision for the future. The EO's policies and directives will continue to guide the Department as we implement PL 477.

As of March 2024, the Department oversees seventy-eight 477 plans. Those plans represent 298 federally recognized Tribes, which is over half of all federally recognized Tribes. Following the renegotiated MOA, Tribes have integrated programs from seven of the twelve eligible Federal agencies into PL 477 plans: the Departments of the Interior, Health and Human Services, Labor, Commerce, Education, Housing and Urban Development, and Justice.

The Department observed a significant increase in Tribal proposals to integrate new Federal programs following the renegotiation of the MOA. Prior to 2023, there were just 18 programs integrated. After renegotiation of the MOA, Tribes proposed, and the Department facilitated agreement on, 26 new programs. These include programs from agencies participating in PL 477 for the first time—such as the Department of Commerce's American Indian, Alaska Native, and Native Hawaiian Projects, and the Department of Housing and Urban Development's Indian Housing Block Grant—and programs from agencies with a longer history in the PL 477 program—the Department of Education's American Indian Vocational Rehabilitation Services program, the Department of Labor's CAREER National Dislocated Worker Grants, and the Department of Health and Human Services' Stephanie Tubbs Jones Child Welfare Services Program. From these programs, the Department facilitated the transfer of almost \$316 million to PL 477-participating Tribes and Tribal organizations in FY 23 and approximately \$242 million in FY 24 to date.

PL 477 is beneficial for Tribes because, in addition to consolidating funding streams to a single point of access at the Department, it also serves to consolidate reporting requirements from each of the Federal programs. Tribes with 477 plans submit a single report on their use of integrated funds, rather than multiple reports for each program. Consolidation of multiple budgets to a single budget reduces the duplication of services across programs, allows Tribes to better use those funds, and allows for the centralized evaluation of programs and operations. Tribes with integrated funds in PL 477 participate in annual A-133 financial audits, reviewed by the Bureau of Indian Affairs (BIA), and on-site monitoring reviews to ensure compliance with the approved 477 plan. The BIA has not found any significant incidents of non-compliance with 477 plans. The 477 model of consolidating funds and streamlining reporting has been a success—participating Tribes have stated that it is the best delivery system for those programs and meets their unique needs while also allowing for appropriate oversight of Federal funds.

The Department fosters collaboration with Federal partners by coordinating monthly and annual meetings on the implementation of PL 477 with all twelve Federal agencies and the Tribes and Tribal organizations that have approved PL 477 plans. These meetings serve as a forum to discuss programmatic questions about integrating Federal funding, reporting requirements, and implementation of administrative rules and program instructions that impact participating Tribes. The Department also provides technical assistance on request to Tribes interested in PL 477 and to Federal partners about integration. This takes a variety of forms, including regional and national technical assistance with participating Federal agencies and Tribes, participation in joint technical assistance with each of the participating Federal agencies, or joint technical assistance with the Department and other Federal partners to 477 Tribes at regional and national trainings on PL 477-related topics. The Department works to ensure that participating Tribes comply with statutory and regulatory requirements.

Finally, at this Subcommittee's March 6, 2024 hearing, Chair Hageman referenced the ISDEAA as a mechanism for economic development that Tribes may use to do what they deem to be in their best interests. The ISDEAA certainly allows for this goal and, with the additional flexibilities of PL 477, Tribes have access to another economic development tool—in some circumstances they can reallocate funds for job-creation activities. Participating Tribes are aware of this and have included economic development and job-creation activities in their PL 477 plans. Economic development activities may include micro-loan programs, coffee shops, language revitalization technology, support for software and video game development, capital investments in businesses, and childcare facilities. Job-creation activities include certification of traditional language teachers, cultural and historic tourism, licensed childcare providers, work experience, partnering post-secondary and vocational technology institutions with science, technology, engineering, arts and mathematics fields, and cultural or traditional arts and crafts.

PL 477 Areas for Continued Growth

While the Department is proud of the successes that the Federal partners have achieved in implementing PL 477, the Department has identified areas for potential growth and refining of the PL 477 process.

First, under PL 477, DOI expects Federal partners to transfer funds to the Department 30 days after DOI's integration decision. Given the variety of funding systems in use across the Federal Government, the need to close out agency grants mid-project period, and the creation of different financial accounts for each transferring program, Federal partners may not complete transfers within 30 days, which may be a potential issue to further examine within the Federal Government. A delay in transferring funds may hamper Tribes' ability to deliver integrated services to Tribal citizens who are eligible for those services. The Department is confident in carrying out its responsibility to foster cooperation and a positive working relationship among Federal partners in delivering funding to Tribes and will work toward streamlining the process.

Second, as previously discussed, the number of Federal programs integrated into 477 plans has grown significantly. The Department, as the lead agency under PL 477, is responsible in helping Federal partners implement PL 477, as it is an important tool for Tribes. Furthermore, in 2024 alone, the Department is providing technical assistance to 29 Tribes and is engaged in discussions with two new agencies regarding potential integration into PL 477. It is challenging for Department staff to keep pace with the significant growth in this hugely successful program.

Finally, PL 477 is limited in scope, in that only programs implemented for certain purposes related to employment, training, and related services may be integrated into PL 477. One of the biggest challenges agencies face in implementing PL 477 is determining whether a program is eligible for integration. Once that determination is made, Tribes may integrate programs and reallocate funds among the integrated programs. From there, the Department can ensure performance of the programmatic obligations, and Tribes can use the cost savings to further advance integrated program goals. Because Tribes know their communities and their needs better than the Department or other Federal partners, this model works well.

Conclusion

PL 477 is a successful model for Tribes to provide employment, training, and related services using multiple Federal resources. PL 477 empowers Tribes to improve the effectiveness of those services, reduce joblessness in Indian communities, and serve Tribally determined goals consistent with the policy of Tribal self-determination, while reducing administrative, reporting, and accounting costs.

Chair Hageman, Ranking Member Leger Fernández, and members of the Subcommittee, thank you for the opportunity to provide the Department's views.

Ms. HAGEMAN. Thank you, Mr. Newland, for your testimony.

The Chair now recognizes the Honorable Billy Friend for 5 minutes.

**STATEMENT OF THE HON. BILLY FRIEND, CHIEF, WYANDOTTE
NATION, WYANDOTTE, OKLAHOMA**

Mr. FRIEND. Good afternoon, honorable members of the Subcommittee. I thank you for inviting me here today to discuss the 477 Program, a program whose principles could revolutionize the way the United States delivers on its trust and treaty obligations to Tribal Nations.

The bedrock principle of the 477 Program is to enable tribes to exercise our inherent sovereignty in our use of our Federal funds. The 477 Program accomplishes this by streamlining and doing away with the administrative roadblocks and putting more decision making in the hands of Tribal Nations. Under the 477 Program, a tribe may combine Federal funding from programs operated across the 12 Federal agencies into one 477 Plan by the tribe to weave together the services associated with the integrated programs. The tribe pulls all of the integrated funding and can reallocate it across the services provided in the 477 Plan.

Through our 477 Plan, we can best support our struggling community members' efforts to become self-sufficient. Despite the statutory mandates, some Federal agencies have tried to maintain control over the decision-making and monitoring processes within the 477 Program. To address these problems, we secured an amendment to the 477 statute in 2017. Yet, in 2018, the Federal agencies released an MOA that undid much of this work and contradicted the 477 statute. We were forced to wrestle with the government until securing a new MOA in 2022.

Since then, the Department of the Interior has applied the 477 eligibility criteria as directed by the 477 statute and approved many new programs for integration, yet issues remain. We believe these issues tie back to Federal agency concerns about losing control over the programs that they operate. Many are not accustomed to deferring to tribal sovereignty and relying on tribes to do what is best for our own people.

Recently, we submitted a 477 Plan amendment to integrate new programs, including two programs that are operated by the Department of Justice. On February 26, DOI approved these programs' integration. Prior to DOI's approval, the DOJ representatives told us that they believed the programs were not eligible. They also said that they had separate legal authority allowing them to refuse to transfer program funding into our 477 Plan.

We believe that they were taking the faulty and restrictive position that only programs authorized specifically for employment or training are eligible for inclusion in the 477 Plan. The narrow interpretation is not new. Congress set out to make clear that supportive services are covered when it is amended in the statute in 2017, and this restrictive interpretation was an important problem fixed in the MOA. The lived reality is that achieving stability and self-sufficiency often requires wrap-around supportive services and Congress recognized that.

But even the bigger program with the assertion the DOJ had was that they had independent legal authority to refuse transfer funding for a program approved by DOI. Again, Congress made clear that DOI has the exclusive authority to decide a program's 477 eligibility, and protecting the DOI's authority to do this was an

important issue addressed in the fixed MOA. Further, the 477 statute makes clear that once DOI approves a program, a Federal partner agency is required to transfer program funds to DOI for integration within a set deadline.

In closing, we believe there is a significant momentum towards a new way of thinking about expenditure of Federal funds by Tribal Nations. We see the evidence of this in Executive Order 14112 designed to reform Federal funding and promote the next era of tribal self-determination. We believe the foundational principles of the 477 Program can serve as a blueprint for this reform.

Thank you.

[The prepared statement of Mr. Friend follows:]

PREPARED STATEMENT OF BILLY FRIEND, CHIEF, WYANDOTTE NATION

Good afternoon, honorable members of the Subcommittee. I thank you for inviting me here today to talk about the important 477 Program—a program whose principles could revolutionize the way the United States delivers on its trust and treaty obligations to Tribal Nations.¹

Benefits of 477 Program

The bedrock principle of the 477 Program is to enable Tribal Nations to exercise our inherent sovereignty in our use of federal funds. The 477 Program accomplishes this by streamlining and doing away with administrative roadblocks and putting more decision making in the hands of Tribal Nations.

Under the 477 Program, a Tribal Nation may combine federal funding from programs operated across 12 federal agencies into one 477 plan. The 477 plan is designed by the Tribal Nation to weave together the services associated with the integrated programs to best support Tribal community members in their efforts to achieve self-sufficiency.

The 477 Program strips away all other reporting requirements tied to integrated programs, instead requiring one comprehensive annual report on implementation of the 477 plan.² It also allows Tribal Nations to pool and reallocate federal funding integrated into a 477 plan across the services provided through the 477 plan.³ Integrated funds that are not obligated or expended remain available without fiscal year limitation.⁴ These are only a few of the 477 Program's functions, all of which are designed to put more decision-making power in the hands of Tribal Nations so that we can better respond to the needs of our communities.

The 477 statute sets forth three criteria that a program must satisfy to be eligible for integration into a 477 plan. First, the program must be operated by one of 12 covered federal agencies.⁵ Second, the program must be implemented for one of the enumerated and broad covered purposes—one of which is “encouraging self-sufficiency.”⁶ Third, in order for a program to be eligible for integration into a 477 plan, it must receive a covered type of funding.⁷ When a program meets these three eligibility criteria, as determined by the Department of the Interior (DOI),⁸ it is eligible for integration into a 477 plan.

Previous Implementation Issues and Steps Toward Resolution

Despite these statutory mandates, some federal agency partners have taken steps to maintain control over the decision-making processes within the 477 Program as well as monitoring of approved 477 plans. For this reason, and to expand the 477 Program, Tribal Nations sought and secured an amendment to the 477 statute in

¹The 477 Program was authorized under the Indian Employment, Training, and Related Services Demonstration Act of 1992, Public Law 102-477, which was amended in 2000, Public Law 106-568, and again in 2017, Public Law 115-93. The 477 Program is codified at 25 U.S.C. §§ 3401-3417.

²25 U.S.C. § 3410(a)(2)(A), (b).

³25 U.S.C. §§ 3413(a)(1)(A), (a)(2), 3410(b)(3).

⁴25 U.S.C. § 3413(b)(1).

⁵See 25 U.S.C. § 3404(b).

⁶25 U.S.C. § 3404(a)(1)(A).

⁷25 U.S.C. § 3404(a)(1)(B), (a)(2).

⁸25 U.S.C. § 3407(a).

2017. Among other clarifications, Congress clarified that DOI is the decision-maker regarding program eligibility and that the covered program purposes are broad.

Yet, the next year, the federal agencies released a Memorandum of Agreement (MOA) that undid much of this work and contradicted the 477 statute.⁹ After Tribal Nations and Congress called for this MOA to be fixed, and Vice President Harris committed to addressing the issue, DOI in 2022 issued a new MOA signed by the federal partner agencies.

Since then, DOI has applied the 477 program eligibility criteria as directed by the 477 statute and approved many new programs for integration.

Remaining Issues

Despite these important steps, issues remain.

For example, one federal partner took the position that some funding associated with a program recently approved for integration into our 477 plan could not be integrated. They claimed that, although we still have this funding and only recently received it from the federal agency, it was not eligible because it was tied to Fiscal Year 2023.

In another example, a federal partner took so long to approve our request for a no-cost extension that we were required to halt spending on that money and transfer costs to a different funding stream. Further, we are aware that one federal partner is still requiring quarterly reports on its integrated program despite the 477 Program's mandate that all underlying reporting requirements fall away. And some federal partners still require us to seek approval from them for specific expenditures.

We believe these issues tie back to federal agency concerns about losing control over the programs they operate. Many are not accustomed to deferring to Tribal sovereignty and relying on Tribal Nations to do what is best for our people.

DOJ Statements Regarding Program Eligibility and Transfer of Funds

Recently, we submitted a 477 plan amendment to integrate new programs, including two programs operated by the Department of Justice (DOJ): the Office for Victims of Crime Tribal Victim Services Set-Aside Program; and the Office on Violence Against Women Tribal Governments Program. On February 26, 2024, DOI approved these programs' integration into our 477 plan through a written record of decision.

Prior to DOI's approval, during a virtual meeting that included many officials from DOJ and DOI, DOJ representatives told us they believed the programs were not eligible. Their position appeared to be based on the faulty and restrictive position that only programs authorized specifically for employment or training are eligible for inclusion in a 477 plan. The DOJ representatives also told us they believed they had separate legal authority that would allow them to refuse to transfer program funding from DOJ to DOI for integration into a 477 plan. They did not share the source of the legal authority they referenced.

DOJ's narrow interpretation of covered 477 purposes was not new. Congress set out to make clear that supportive services are covered when it amended the statute in 2017, and this restrictive interpretation was an important problem fixed in the MOA. The lived reality is that achieving stability and self-sufficiency often requires wraparound supportive services to get community members up on their feet first.

But the even bigger problem was DOJ's position that it had independent legal authority to refuse to transfer funding. This could lead to other federal partner agencies making this claim when they want to maintain control over a program. Again, Congress made clear that DOI has the exclusive authority to apply the 477 program eligibility criteria to approve or deny integration of a program. And protecting DOI's authority to do this was an important issue addressed in the MOA.

The 477 statute also makes clear that, once a program is approved for integration, a federal partner agency is required to transfer program funds to DOI for integration into the 477 plan within a set deadline. A federal partner not later than 30 days after the date of apportionment must transfer the funding to DOI.¹⁰ And DOI must distribute funds to the Tribal Nation through its 477 plan by not later than 45 days after the date of receipt of the funds from the federal partner.¹¹

⁹Letter from Tara Sweeney, Assistant Secretary-Indian Affairs, Dep't of Interior, to Tribal Leaders (Dec. 20, 2018) (transmitting Indian Employment, Training and Related Services Consolidation Act of 2017 Interagency Memorandum of Agreement).

¹⁰25 U.S.C. § 3412(a).

¹¹25 U.S.C. § 3410(a)(2)(D)(ii).

Conclusion

We believe there is significant momentum towards a new way of thinking about expenditure of federal funds by Tribal Nations. We see evidence of this in Executive Order 14112, designed to reform federal funding and promote the next era of Tribal self-determination.¹² We believe the foundational principles of the 477 Program can serve as a blueprint for this reform.

Ms. HAGEMAN. Thank you, Mr. Friend, for your testimony.

The Chair now recognizes the Honorable Lee Spoonhunter for 5 minutes.

STATEMENT OF THE HON. LEE SPOONHUNTER, CO-CHAIR, NORTHERN ARAPAHO TRIBE BUSINESS COUNCIL, ETHETE, WYOMING

Mr. SPOONHUNTER. Madam Chair Hageman, Ranking Member Leger Fernández, and members of the Subcommittee, thank you for inviting me to speak on behalf of the Northern Arapaho Tribe.

My name is Lee Spoonhunter. I have been Co-Chairman of the Tribe's Business Council since 2016 and had the pleasure of serving as the Council's Chairman from 2018 to 2020. For over 20 years, I have dedicated my career to public service and was a director of the Tribe's TANF and child support programs and served as the Northern Arapaho Sky People Higher Education Director. I also sit on HUD's Tribal Advisor Committee, HHS Secretary's Tribal Advisory Committee, and the National Indian Health Board, and I have consulted for other tribes, helping with their social programs as well, so I understand how these initiatives can impact our members.

Public Law 102-477 has been an important step towards tribal self-governance. It has allowed for greater exercises of sovereignty in managing Federal programs, it has increased budget flexibility, reduced program inefficiencies, and allows us to prioritize programs that help our people build sustainable lives for themselves and their families.

Tribal governments are tasked with fostering the right environment for our people to earn sustainable wages, provide for their household, and establish strong economic communities, and we must do this while staying true to embracing our cultural heritage. In that spirit, the Northern Arapaho Tribe leverages 477 programming to reduce joblessness, assist and support individual family efforts to become self-sufficient, encourage and support youth academic success, and to encourage healthy lifestyles and cultural appreciation. We offer TANF cash assistance, employment and training programs, work experience programs, and assistance with childcare, and to date we have had much success.

The Tribe has leveraged resources to help individuals identify and remove barriers to work, gain work experience, obtain and retain full-time employment, and advance in their careers. Some participants have obtained a GED, others have received CDLs, heavy equipment operator training, medical assistance training,

¹²Exec. Order 14112, Reforming Federal Funding and Support for Tribal Nations To Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination (Jan. 22, 2024).

electrician apprenticeships, construction experience, and more. We have been able to assist students attending Central Wyoming College with their tuition, fees, book purchases, and supplies. We have paid for substitute teaching certifications as the demand for substitute teachers following the pandemic remains high.

We have also leveraged resources in other ways including to install playgrounds, provide language and culture camping kits to use during tribal ceremonies, and provide backpacks filled with school supplies. These are just some of the ways that we have been able to benefit our people and encourage self-sustainable and culturally-enriched lifestyles. We are proud of our successes.

We must remain committed to improving 477. As this Subcommittee is aware, government institutions do not always operate with the utmost speed. Issues arise quickly and delays stemming from red tape can create unnecessary hardships. Meeting the challenges of our people requires flexible budgets and agile government processes, and as the boots on the ground and the governing body most familiar with the daily challenges facing the Northern Arapaho people, we are the best positioned to address these needs.

We look forward to working with this Subcommittee and other government agencies to reduce any inefficiencies where possible and appreciate the cooperative efforts of all agencies involved. The sustainability of our culture and our economy is dependent on the people that make up our communities. If we want to ensure a long-time, self-sustainable future for tomorrow, then we must make strategic investments in those individuals and their families today. We remain committed to harvesting the full potential of 477 to deliver effective solutions to our people.

Thank you and I look forward to answering your questions during this hearing.

[The prepared statement of Mr. Spoonhunter follows:]

PREPARED STATEMENT OF LEE SPOONHUNTER, NORTHERN ARAPAHO
BUSINESS COUNCIL

I. Introduction

Chairman Hageman, Ranking Member Leger Fernandez, members of the Subcommittee, thank you for inviting me to speak on behalf of the Northern Arapaho Tribe.

My name is Lee Spoonhunter. I am an enrolled member of the Northern Arapaho Tribe and have been Co-Chairman of the Tribe's Business Council since 2016 and served as Chairman from 2018 to 2020.

For over 20 years, I have dedicated my career to public service. I had the pleasure of working for the Northern Arapaho Tribe's Temporary Assistance for Needy Families (TANF) program for almost a decade. I then went on to help build and improve the Northern Arapaho child support program. Prior to being elected to the Business Council, I served as the Northern Arapaho Sky People Higher Education Director.

In addition to my work for the Tribe, I serve on the Department of Housing and Urban Development's Tribal Intergovernmental Advisory Committee and have also worked as a consultant to several other tribes to help with their respective TANF and Child Support programs. So, I have seen, first-hand and for several decades, the needs of the Northern Arapaho people and native people at-large.

Though not without its faults, Public Law 102-477 ("477") has been an important step towards tribal self-governance and sovereignty in managing federal programs that affect our members. 477 has allowed for increased budget flexibility, reduced program inefficiencies, and allows the Northern Arapaho Tribe to prioritize

programs that help our people build sustainable lives for themselves and their families. This testimony will discuss both the feats of, as well as key areas for improvement for, 477.

II. Overview of Services

I will start by giving a general overview about how the Tribe leverages 477 programs to empower Northern Arapaho tribal members and adjacent native people.

As a government entity, our Business Council is tasked with fostering an environment conducive to our people earning sustainable wages, providing for their families, and establishing a strong community. And we must do this while staying true to, and embracing, our ever-important cultural heritage.

To that end, the Northern Arapaho Tribe leverages 477 to create consolidated programming approved by the Business Council to achieve the following goals: (1) to reduce joblessness; (2) to assist and support individual and family efforts to become self-sufficient; (3) to encourage and support youth academic success; (4) to encourage healthy lifestyles and cultural appreciation; and (5) to strengthen the Tribe's ability to reach tribally determined goals consistent with our status as a sovereign entity.

477 programs are grouped into 5 main categories, including: (1) TANF cash assistance programs, (2) employment and training programs, (3) work experience programs, (4) childcare programs, and we also provide programming for (5) general assistance. Most programs are available to individuals that live on the Wind River Reservation, as well as those residing in Fremont and Hot Springs Counties so long as the household contains one or more Northern Arapaho child or descendant.

- **Cash assistance.** Our Tribe provides temporary cash assistance services to participant families, with or without children. Participants must meet certain requirements, including developing and complying with an Individual Self-Sufficiency Plan (ISP) or Family Self-Sufficiency Plan (FSSP) as well as engaging in approved work activities to strengthen the participant's employment capabilities.
- **Employment and Training.** We provide employment and training services to participants that are members of a federally recognized tribe and live either on the Wind River Reservation or in Fremont or Hot Springs Counties. Additionally, programs like the Native Employment Works (NEW) program are designed to aid individuals who are under-employed or unemployed on a one-time basis. The NEW program has primarily provided services to individuals and students attending the Wind River Job Corps.
- **Work Experience Programs.** The work experience programming has placed several workers in tribal departments, including Enrollment, Senior Wood Program, Utilities, Senior Citizen's Program, Housing, TERO, and childcare. Many of these individuals were hired into permanent full-time positions. Even for those who are not immediately hired, we sometimes extend participants' hours until the employer has capacity to hire them.
- **Childcare Programs.** Through childcare programming, our Tribe provides subsidized childcare assistance to low-income families engaged in an approved work, education, or job search activity. Childcare services are important to nurture and strengthen families to become self-sufficient.

III. Success Stories

Implementing programming pursuant to 477 has been largely successful and is helping the Tribe better assist individuals on the reservation and in adjacent counties with moving towards personal economic self-sufficiency.

The Northern Arapaho Tribe has used 477 programming to help individuals identify and remove barriers to employment, gain work experience, obtain and retain full-time paid employment, advance in the workforce, and make steady forward movements to achieve unsubsidized employment. Through leveraging our programs, some participants have obtained a GED/HiSET. Others have received Commercial Driver Licenses, Heavy Equipment Operators licenses, medical assistance training, electrician apprenticeships, construction experience, and more.

The Tribe has also assisted students attending Central Wyoming College with education costs, including tuition, fees, books and supplies. And we have also paid for substitute teaching certifications as the demand for substitute teachers following the pandemic has remained high.

Other examples of ways we have been able to successfully leverage 477 include:

- Installing playgrounds within our communities.
- Providing Language and Culture Camping kits for home providers to use during our tribal ceremonies. Kits included first aid materials, flashlights, books, sunblock, mosquito spray, an umbrella, face masks, hand sanitizer, and other helpful materials.
- Providing backpacks filled with school supplies.
- Providing Halloween safety handouts and goody bags to children.
- Providing arts and craft kits during the winter holiday months.

These are just some of the ways, both big and small, that we have been able to leverage 477 programming to benefit individuals and encourage economically self-sustainable, healthy, lifestyles.

IV. Challenges

While there have certainly been positive impacts resulting from 477 programming, the Northern Arapaho Tribe and the federal government can, and must, continue to make improvements and increase efficiencies where they are most beneficial.

As the Committee is well aware, government institutions are not always the most expeditious entities. Often, issues arise at a pace exceeding the speed of even our tribal government. Additional delays stemming from multi-government processes, and accounting for agency action, creates unnecessary hardships for our members. Meeting the challenges of our people requires flexible budgets and agile government processes. And as both the boots on the ground and the sovereign governing body most familiar with the daily challenges facing the Northern Arapaho people, we are best positioned to address these needs.

Of course, the Tribe appreciates the cooperative efforts of all agencies. And we look forward to working with this Committee and other government agencies reduce bureaucratic inefficiencies where possible.

V. Conclusion

The sustainability of our culture and economy is deeply dependent on the people that compose our communities. If we want to ensure long-term self-sustainability for tomorrow, then it is necessary that we make strategic investments in those individuals and their families today. Thus, we remain committed to harnessing the full potential of 477 to deliver increasingly effective solutions and meet the needs of our people as it relates to employment, education, training, and childcare. This is essential for the Tribe as a whole, as well as its individual parts.

Thank you and I look forward to answering your questions during the hearing.

Ms. HAGEMAN. Thank you, Mr. Spoonhunter, for your testimony. The Chair now recognizes Ms. Margaret Zientek for 5 minutes.

STATEMENT OF MARGARET ZIENTEK, CO-CHAIR, P.L. 102-477 TRIBAL WORK GROUP, SHAWNEE, OKLAHOMA

Ms. ZIENTEK. [Speaking Native language.] Hello, I am Margaret Zientek. I am Co-Chair for Public Law 102-477. I have served with my Tribe for 27 years and since the year 2000 have been Co-Chair for the Tribal Work Group.

One of the key statements made earlier, when allowed to function as Congress intended, the 477 Program has been a model of success that we hope will be emulated and expanded across Federal programs. There are some issues. There are some successes. I hope to briefly tell you both.

Opportunities. The expansion of self-determination and administrative flexibility. President Biden's Executive Order 14112 on reforming Federal funding and support for Tribal Nations to better embrace our trust responsibilities and promote the next era of tribal self-determination, we applaud that step.

We also want to recognize the Department of the Interior and the Division of Workforce Development has over the last couple years stepped fully into its role as lead agency under the 477 statute, as amended, and the best examples if the 2023 MOA, the modification of the MOA to correct it. They have supported tribes, and as you heard Bryan Newland, Assistant Secretary, state, they have very limited staff and are facing a lot of interest. They need help. I am hoping that through the Appropriations Committee we can help them.

The Work Group is also pleased to note that more programs have been included, you have heard those already. There is a reduction in reporting burden, which is a positive, if those 44 programs we operated were held outside of 477, that is 153 separate reports down to one. One three-part report.

It is a simplified grant process, renewal, we are still working on that. We do have some that have used that well. WIOA, Department of Labor, HHS Community Services Block Grant, and I hope most recently working with Title 4B, we will get there. We have challenges.

Unlawful holding of funds by DOJ. You have heard that already spelled out, and threatening that they believe they have authority to not move those funds.

Delayed funds transfer. There has been a significant problem with certain agencies and programs transferring funds to BIA. We understand one tribal organization right now is waiting for almost 2 years for the Department of Commerce Minority Business Development Agency to move those funds. Other tribes seem to have issues with Bureau of Indian Education funds. In your home state of New Mexico, Laguna Pueblo, was one who suffered from that in 2000 at the height of the pandemic. Two years of funds had been held. Sent to central but never sent to the tribe.

There was a failure to reallocate PEAFF, Pandemic Emergency Assistance Programs. First, DHHS TANF said you can't put that in 477, then tribes advocated why. They put it in 477. Then they wanted separate reporting. We advocated and explained you can't do that, that is contrary to 477. And then because they couldn't identify what funds might be available for reauthorization, again against 477 law, tribes were not allowed to participate in the reauthorization or the distribution of those funds.

Unlawful meddling in tribal hires. Citing 2 CFR 200, Uniform Guidance regulations, some Federal agencies, including the Department of Education, have been requiring Federal approval for personnel decisions made by tribes and tribal organizations operating pursuant to Public Law 102-477 Plan. This is contrary to the letter and spirit of the 477 statute and nothing in Part 200 Regulation allows or requires.

There is an inconsistent compliance supplement. The May 2023 OMB Compliance Supplement has detailed requirements regarding the investment of 477 funds. However, 25 U.S.C. 3413(g)(2) requires that only those funds are managed in accordance with the prudent investment standard. We are asking OMB to correct that immediately.

Failure to provide a labor force report. That was in the law in 2017. We have yet to see one and we need that. It is potentially affecting funding for tribes.

In conclusion, I thank you for that chance. I do want to restate something that Assistant Secretary Bryan Newland stated. He referred to it as limited in scope. Tribes determine what is related to determining eligibility, so tribes determine employment training and what is a related service. It is up to tribes to make that. And I thank you for your time.

[The prepared statement of Ms. Zientek follows:]

PREPARED STATEMENT OF MARGARET ZIENTEK, CO-CHAIR, 477 TRIBAL WORK GROUP

Chair Hageman and Members of the Committee, thank you for the opportunity to provide testimony during this important hearing on the 477 Program. My name is Margaret Zientek, and I appear today as Co-Chair of the 477 Tribal Work Group. The Work Group represents the approximately 300 federally recognized Tribes and Tribal Organizations that are served through the 78 current 477 Plans, as well as Tribes and Tribal organizations that are currently interested in joining the 477 Program. I am also the Director for the Workforce and Social Services Department for the Citizen Potawatomi Nation, of which I am an enrolled citizen. The Citizen Potawatomi Nation has operated a 477 program for almost three decades, and I have served in my national capacity for almost two of those decades, including serving as a Tribal representative on the Pub. L. 102-477 Administrative Flexibility Workgroup leading up to the 2017 amendments, a Tribal representative during the negotiations that led to the 2023 Interdepartmental Memorandum of Agreement implementing the 477 statute as amended, and currently on the federal/Tribal work group developing an updated 477 reporting form.

The 477 Program is a critical federal initiative designed to reduce administrative burdens and support Tribal self-determination by allowing Tribes and Tribal Organizations to integrate multiple federally supported Tribal programs into a single program governed by a single 477 Plan approved by the Department of the Interior (DOI). In turn, the Tribe or Tribal Organization reports back on an annual basis using a single consolidated reporting form. I am pleased to report to the Committee that, when allowed to function as Congress intended, the 477 Program has been a model of success that we hope will be emulated and expanded across federal programs. However, there are still a few issues in implementation that must be noted for the Committee.

Opportunities

Expansion of Self Determination and Administrative Flexibility: The 477 Tribal Workgroup has been heartened to see President Biden's Executive Order 14112 on "Reforming Federal Funding and Support for Tribal Nations to Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self Determination" and its emphasis on increasing flexibility in Tribal Nations' use of federal funding to better promote tribal self-determination. The 477 Program fits exactly into that role, and we have been pleased to see some federal agencies truly embrace that mission.

For example, DOI, and its Division of Workforce Development (DWD), has over the last year or so stepped fully into its role as Lead Agency under the 477 statute, as amended, and the 2023 MOA. DWD has supported Tribes and Tribal Organizations through the Plan approval and amendment processes as more Tribes join the Program and more programs are integrated, interfaced appropriately with the other federal agencies, and stood up for implementation of the 477 law as written and intended by Congress. Unfortunately, there is more work for that Office to do than can be done with the current resources available. The Work Group urges the Committee to work with its colleagues on the Appropriations Committee to provide additional resources to be used toward these goals.

In addition, the Work Group is pleased to see the integration of more and more programs integrated under 477 Plans, including recently the Department of Health and Human Services (HHS) Family Violence Prevention and Services Program (FVPSA), and the Department of Justice (DOJ) Victims of Crime Act Tribal Victims Services Set-Aside Program (TVSSA) and Office on Violence Against Women Grants to Tribal Governments Program (GTG). Integration of these programs into 477

Plans will allow Tribes and Tribal Organizations to provide comprehensive services that supports the goals of both the underlying programs and the 477 Program as a whole.

Reduction in Reporting Burdens: Another positive development has been the overall reduction in reporting burden imposed on Tribes and Tribal organizations that are operating 477 Programs. If a Tribe were to operate each of the 44 federal programs currently integrated under a 477 Plan independently, for example, that Tribe would be required to provide at least 153 different individual reports. Under the 477 Program, that burden is reduced to a single three-component annual report and the resources that would have otherwise gone to developing each of those individual reports can instead be used to provide services to the community. The current 477 annual report form will expire in November, 2024 and a federal/Tribal work group is currently working on a simplified cumulative report. The Work Group appreciates all of the affected federal agencies' participation and forward thinking during that process.

Simplified Grant Renewal Processes: On a similar note, the Work Group has been pleased to see some agencies embracing a simplified grant renewal process for programs that have been integrated under a 477 Plan. Tribal grantees understand that to include a grant within 477 Plan, the Tribe must apply for that grant. Certain agencies have acknowledged possible inclusion in a 477 Plan and provide specific instructions or even a simplified path for Tribes or Tribal Organizations to move forward as they apply to renew their grants. Some examples include the Department of Labor's Workforce Innovation and Opportunity Act (WIOA) Program, and HHS' Community Services Block Grant (CSBG) Program.

Challenges

Unlawful Holding of Funds by DOJ: As noted earlier, following the 477 statute, BIA recently approved a Tribe's 477 Plan amendment to integrate DOJ's TVSSA and GTG programs. This should have been straightforward, as those programs are clearly able to be integrated because the Tribe proposed to implement those programs "for the purpose of job training, [job] skill development, assisting Indian youth and adults to succeed in the workforce, and encouraging self-sufficiency," as well as "services related to th[ose] activities" under 25 U.S.C. § 3404(a)(1). During the plan review process, DOJ disagreed with the integration of these programs, under the view that Tribes may only integrate programs that are specifically authorized for employment and training. Congress specifically rejected that view in developing the 2017 amendments to the 477 statute (in fact, that was one of the main purposes of the 2017 amendments), and the affected federal agencies did as well in the 2023 MOA. The Work Group understands that DOJ is now taking the position that it can refuse to transfer the funds even though the plan amendment has been approved. This is flatly contrary to the 477 statute's funds transfer requirements,¹ and if allowed to stand, would undermine both the 477 Program and this Committee's work in developing those funds transfer requirements.

Delayed Funds Transfers: There also remains a significant problem with certain agencies and programs transferring funds to BIA to be passed on to Tribes and Tribal Organizations operating 477 Programs. The Work Group understands that one Tribal Organization has been waiting for funds from the Department of Commerce's Minority Business Development Agency for more than a year. Similarly Tribes and Tribal Organizations have been waiting for Bureau of Indian Education funds have been delayed by nearly two years.

Failure to Reallocate PEAFF Funds: Another major issue was the HHS and Administration for Children and Families (ACF) implementation of the Pandemic Emergency Assistance Fund (PEAF) with regard to 477 Tribes and Tribal Organizations. PEAFF authorized \$1 billion in spending to states, Tribes, and territories to assist families impacted by the COVID-19 Pandemic.² The statute instructs governments managing PEAFF funding to spend the emergency funds by the end of the fiscal year 2022.³ "All funds . . . that are unused" were then to be reallocated to the "States and Indian tribes eligible for funds under this subsection" that used all of their PEAFF funding.⁴ From the outset, ACF demonstrated a resistance to—and fundamental misunderstanding of—the 477 program. ACF initially did not intend

¹ 25 U.S.C. § 3411(a)(2) and 25 U.S.C. § 3413(a)(1)(B).

² 42 U.S.C. § 603(c)(1).

³ 42 U.S.C. § 603(c)(6)(D).

⁴ 42 U.S.C. § 603(c)(4)(b)(i).

to allow Tribes to integrate PEAFF funding into the Tribes' 477 funds.⁵ After tribal consultation, ACF transferred PEAFF funds for Tribes that integrate Temporary Assistance for Needy Families funds under a 477 Plan to the BIA.⁶ However, ACF included instructions that tribes must track and report on PEAFF funds separately within the Tribes' 477 plans. ACF later acknowledged that those instructions were contrary to the 477 law.⁷ Later, ACF issued an information memorandum that once again violated the text and purpose of 477 statute. Without any Tribal consultation, ACF decided *not* to reallocate PEAFF funding to 477 Tribes. According to ACF, because 477 Tribes report in a single reporting form, the agency could not determine whether the 477 Tribes had "unspent" PEAFF funds to be collected and reallocated. Therefore, it left 477 Tribes out of distribution of unspent PEAFF funds.

This was wrong on several levels. First, at the most fundamental level, once federal grant funds are transferred to a 477 Tribe and integrated into a Tribal 477 Program under a Plan, they become 477 funds and are administered under the Plan "notwithstanding any other provision of law." In other words, there was no such thing as "unspent" PEAFF funds to be recaptured. And under the plain words of the American Rescue Plan statute, 477 Tribes were clearly eligible to receive reallocated funds.

Not only was leaving 477 Tribes out of PEAFF reallocation unlawful under the American Rescue Plan, it was unlawful under the 477 statute. The statute says: "In no case shall the amount of Federal funds available to an Indian tribe that has in place an approved plan under this chapter be reduced as a result of . . . the enactment of this chapter; or . . . the approval or implementation of a plan of an Indian tribe under this chapter."⁸ By excluding Tribes with 477 plans from the PEAFF reallocation, ACF reduced the amount of federal funding available to 477 Tribes simply because they are 477 Tribes.

Unlawful Meddling in Tribal Hires: Citing to the 2 CFR Part 200 Uniform Guidance regulations, some federal agencies, including the Department of Education, have been requiring federal approval for personnel decisions made by Tribes and Tribal organizations operating pursuant to a 477 Plan. This is contrary to both the letter and spirit of the 477 statute, and nothing in the Part 200 regulations allows or requires this action.

Inconsistent Compliance Supplement. The May 2023 OMB Compliance Supplement has detailed requirements regarding the investment of 477 funds. However, 25 U.S.C. § 3413(g)(2) requires only that those funds are "managed in accordance with the prudent investment standard." OMB should update the compliance report to be consistent with the statute.

Failure to Provide a Labor Force Report: In the 2017 amendments to the 477 Statute, Congress required the Department of Labor to provide a Labor Force Report. DOL never developed such a report, and in 2022, transferred that responsibility to the Census Bureau. In September 2022, the Census Bureau provided an update to the Tribal Workgroup, but has since provided no additional information—despite the Work Group's requests for update. No Labor Force Report has been issued.

Conclusion

Thank you for the opportunity to provide testimony. I would be happy to answer any questions you may have.

⁵ Off. of Family Assistance, TANF-ACF-PI-2021-04, The Pandemic Emergency Assistance Fund (2021).

⁶ *Id.*

⁷ Off. of Family Assistance, TANF-ACF-IM-2023-01, Temporary Assistance for Needy Families Information Memorandum (2023).

⁸ 25 U.S.C. § 3411(a).

Ms. HAGEMAN. Thank you, Ms. Zientek, for your testimony.

The Chair will now recognize Members for 5 minutes of questioning beginning with myself.

Several witness statements have mentioned that tribes have encountered issues with other departments and agencies outside of the Department of the Interior while implementing their 477 Plans.

Mr. Newland, how does the BIA work with a tribe to resolve these issues and has the BIA found that agencies are generally helpful in resolving these types of situations?

Mr. NEWLAND. Thank you, Madam Chair. We have been working very hard under the interagency agreement that I think every witness mentioned in their testimony. The law itself contemplates that agencies are going to disagree at times about the scope of 477, and I think you have heard some of that from some of the witnesses today. We have been working to make sure, along with our agency partners, that we are meeting the terms of the law as Congress has intended, and we know that Congress has amended Public Law 477 several times to make it clear to Federal agencies that Congress means what it says, that tribes can bundle these programs together and integrate them into a single plan.

So, the new MOA is less than 2 years old at this point, and I think we have had success on the whole with implementing it. But as you heard from Ms. Zientek just now, there have been some challenges. We are trying to work through them, but again, in all of our conversations with our agency partners, we emphasize that it is the 50-year policy of the United States, as embodied by Congress, as reaffirmed by the President, as affirmed by the Secretary and all the other cabinet secretaries who have signed this MOA, that we should be guided by self-determination in allowing tribes to set the agenda on how these funds are used.

Ms. HAGEMAN. I appreciate that, and I do want to note for the record that today we received a letter from the Department of Justice, DOJ, and it relates to the Wyandotte situation with the Department indicating that these programs or these grants will be expedited and moving forward quickly. We appreciate that information and we appreciate you continuing to work with the agencies and tribes themselves to make sure that we can address these and carry out the intent of Section 477.

Your written statement mentioned that the Department is working with partners and tribes to update the annual reporting form for the 477 Program. What necessitated the update to this form and what other data is useful to capture in the annual reporting?

Mr. NEWLAND. I am sorry, Madam Chair, would you repeat the first part of your question?

Ms. HAGEMAN. Yes. What necessitated the updating of this form, why was it necessary to do so, and what other data would be useful to capture in the annual reporting?

Mr. NEWLAND. One of the reasons we need to update the form is to make sure that there is consistency and simplicity, which again is what Public Law 477 envisions and we want to make sure that tribes are not having to use all manner of different forms

depending on what programs they are integrating into their 477 Plan, so that is really the impetus behind this.

In terms of additional information that might be useful, I would have to offer to get back to you on that one, Madam Chair, because I want to be inclusive to aid the Committee in any solutions you may be considering.

Ms. HAGEMAN. OK, I appreciate that.

Mr. Spoonhunter, in your written statement you mentioned that bureaucratic inefficiency should be reduced where possible, and I wholeheartedly agree with that and, in fact, this morning had a Judiciary Subcommittee hearing dealing specifically with administrative and bureaucratic issues. Could you elaborate further on where Northern Arapaho has seen these inefficiencies in the 477 Program and what changes would improve these inefficiencies. What do you recommend that we do?

Mr. SPOONHUNTER. Thank you for the question, Madam Chair. Under the 477 law, it was developed, a single program with simple reporting requirements, as stated. There are some reports, though, from different agencies that fit under the 477 umbrella that still require separate reporting, duplicating reporting on behalf of staff. You have a tribe of 10,600 in Northern Arapaho, you have 27 staff members there who can work on these reports. But you have tribes that are anywhere from 100 to 500 people and there are only two or three people within that program. So, having to duplicate these reports, you are taking staff time away from the staff that can work on the needs and services of the tribal people.

And also, with the TANF program, for example, the other programs that the funding awards which are transferred over to the Department of the Interior to put under the 477 umbrella, those funds come in a single award at the beginning of the fiscal year. Unfortunately, you have the TANF program which does not do this. The TANF program under HHS ACF does not give the full funding award at the beginning of the fiscal year, so you compromise the services that are able to be met by the program to the clients and to the tribal members by the lack of funding that is received from TANF.

Ms. HAGEMAN. Just very quickly, do you believe that these are changes that could be done administratively or do you believe that the law itself needs to be changed?

Mr. SPOONHUNTER. These are program administrative changes that can be done within the agencies. And if we can move them that way, that provides better services and more effectively and to and in country for the tribal people.

Ms. HAGEMAN. OK. Thank you.

The Chair now recognizes the Ranking Member for her 5 minutes of questioning.

Ms. LEGER FERNÁNDEZ. Thank you very much for the summary of the things that are working right. It sounds like with the 2022 renegotiated memorandum that the Biden administration did make huge gains. It sounds like, because you are the ones who worked really hard to get those 2017 amendments in, so it must have been incredibly frustrating when in 2018 there was an MOA that you were left out of the process. So, what I heard was 2022, you liked

that, you liked the Biden administration Executive Order because that has moved forward.

But one of my concerns is the fact that we have had these delays even with the new MOA, even with the new law of the funding, and I think it is really important to have the Subcommittee here so that the Assistant Secretary can go back, you don't understand, this is what it means when you don't move quickly, right, because you in many ways have to take those voices and educate, and in a very nice way I know, your fellow agencies.

But if I could hear from the perspective of the Northern Arapaho and the Wyandotte, share with us what happens when there are these delays. If you could real quickly just say what does it mean to your tribe when there is this delay in getting this funding forward. Mr. Spoonhunter, we will start with you.

Mr. SPOONHUNTER. With the 477 Program, as you know, it is designed to meet the needs of our tribal people, specific needs of Indian Country that states, they follow a universal pattern is where you can't do the cookie cutter approach with tribes. So, the specific needs that tribes have, the funding that they receive is very vital that these program funds come in at the beginning of the fiscal year. Again, I talk about the services that are provided to our children and to our families that are served under 477.

Now, we compromise those services by these delays when these funds aren't delivered over to the Department of the Interior in a timely manner. So, working together, I believe that if we can have agencies come on board to be giving the funding award to the Department of the Interior in a timely manner, we better serve our community, we make success for future generations to come, and that is what it is all about.

Ms. LEGER FERNÁNDEZ. Thank you. And, Chief Friend, could you share with us real quickly what it means when a tribe doesn't get these funds through that you had been expecting.

Mr. FRIEND. Thank you. It is a larger issue, especially when it comes to the reporting aspect because it takes a lot of our time away from our staff that could be serving the clients in our program, when they are burdened down with a lot of different reports, whether it is quarterly reports, the different agencies that are part of that, it reduces the administrative burdens that we can spend more money on providing those direct services to the clients that are in need.

So, instead of the staff consumed with reporting requirements, they actually are freed up to help those in the community that are actually in need, whether it be in workforce, whether it be childcare, whether it be educational services, the reduced administrative time means more time spent with our clients.

Ms. LEGER FERNÁNDEZ. Thank you. And for the last question, I want to move in a forward-looking basis. So, Ms. Zientek, if you could quickly say, one of the issues is right now, I am saddened that not more agencies actually participate, right, that not all the agencies are eligible to participate. Thank you very much, your written testimony was great laying out the things.

Where do you think we should push so that there is more participation, that you think would make a big difference? And if you can

be quick because I also want to hear from Mr. Newland on that issue.

Ms. ZIENTEK. Each tribe determines what is best for them, so if we could get past this dance that we do with agencies and educate them and educate how to work together. We have offered to work with the Department of the Interior Staff Division of Workforce Development and train these agencies, educate them on this. I understand the issue with DOJ and the letter just received today, they finally got in their head, yes, we do have to move the money. So, that education piece could help.

But it is going to depend on tribes. As you heard earlier, it is not cookie cutter. We each make our own decision of what works for us in our area and no two tribes' programs will be the same.

Ms. LEGER FERNÁNDEZ. Right. And we have run out of time, so I would love to hear your thoughts and response in writing to the questions because I have run out of time.

With that, I yield back.

Ms. HAGEMAN. Thank you. The Chair now recognizes the Representative from California, Mr. LaMalfa.

Mr. LAMALFA. Thank you, Madam Chair. Let me, kind of a sidebar with Secretary Newland for a moment. Just wanted to point out or remind, up in my general area, the Coquille Tribe up north of my district, the Oregon side, we have where two dozen Representatives and Senators from California and Oregon, they represent over 60 tribes and they have written to express that the Coquille Tribe's proposal to build a new casino 170 miles from their own existing lands, that the casino doesn't really fit within the spirit or actually comply with the law, harms other tribes, and should be rejected by the Department. So, I hope you have had a chance to take heed of this guidance and this request and that maybe the Department will be informed on this that they have decided to reject the project.

So, if the Department is indeed going to stick with its own regulations, its own requirements, then its responsibility is to all the tribes across the board. I just wanted to put that out, and I know you have that ongoing, and I think that is still a strong opinion in the neighborhood, so thank you.

I am going to turn to Chief Friend here. We have heard about examples of Federal agencies which are not properly implementing the 477 Program. In the one example, the agency has told the tribe to continue issuing quarterly reports even though that requirement supposedly had been rescinded. And then in another example, the agency is insisting that it must sign off and approve specific expenditures that the tribe would be making.

So, of course, with the title of the hearing being about self-determination and tribal autonomy, how do examples like that fit with the rechanneling of the 477 Programs? Have you had a chance to bring up these disputes with the BIA and have they taken any actions to correct the over-reach in those areas?

Mr. FRIEND. As far as the DOJ, which is one of the examples that we gave, we hope that this situation is going to be resolved. We have been working closely with DOL, and DOI has greatly supported us and the BIA in this matter. The flexibility to use those funds, applying the 477 Program eligibility across these programs

for DOJ with regards to ensuring DOJ transfers the approved funds, DOI has set up a meeting, in fact, for later this week I believe with the Wyandotte and the DOJ. This, of course, is before we were made aware of the letter that was issued today by the Department of Justice.

And just to say we did have the opportunity to glance at that letter that was submitted to the hearing. It appears to maintain the position that DOJ can refuse to transfer dollars in other situations. I think that was the last paragraph. So, while we feel like the letter did state that they would transfer the funds, I think there probably is a need for some clarification with what they mean by in other situations.

But some of the examples that we gave, for example, LIHEAP requires a separate report, TANF have long required a quarterly report, despite significant pushback from tribes with the DOJ prior to integration of our new program in the 477, DOJ was requiring approvals for costs that are already covered by the grant, so we hope that it can be made clear to all Federal partners, agencies, and staff that their independent oversight automatically falls away once a program is integrated into 477.

Mr. LAMALFA. OK. Chief Friend?

Mr. FRIEND. We hope that they realize that those reporting requirements are dropped.

Mr. LAMALFA. Thank you. Let me direct that also to Secretary Newland, that again with imposing these new requirements in the 477, which is against congressional intent and the Department's implementation for the program, shouldn't the Secretary be stepping in to uphold the integrity of the program and not have it continue this way?

Mr. NEWLAND. Thank you, Congressman. We are attempting to do just that. I think when we look back at the adoption of the Self-Determination Act 50 years ago, we saw a lot of resistance in different Federal agencies to tribal control over Federal programs in tribal communities. And I think we have a similar experience here in some pockets of the Federal Government with retrograde paternalistic views when it comes to tribes, but my view is Congress has made its intent clear with Public Law 477.

The President and the cabinet have subscribed to that view of self-determination and we are going to work through it and make sure that we are fulfilling Congress' intent, empowering tribes and not leaving these decisions in the hands of small offices and different Federal agencies.

Mr. LAMALFA. Thank you. I yield back, Madam Chair.

Ms. HAGEMAN. Thank you. The Chairman now recognizes Representative Carl.

Mr. CARL. Thank you, Madam Chairman.

Mr. Spoonhunter, it is always a pleasure to see you, sir. You always have that smile on your face and I appreciate it.

I know I sound like a broken record, but it is worth emphasizing that only those who live it, truly understand it. The bureaucratic agencies in Washington, who do not see the real time impact, must take steps back and prioritize the voices of those directly affected. The Indian Employment Training and Related Services Act of 1972, or the 477 Program, is instrumental in empowering the tribal

communities through self-determination by simplifying access to critical services and reducing administrative burdens.

With that in mind, I would like to hear your perspective on two important aspects, and I will give them to you separately. Given the challenges and opportunities of highlighting during this hearing, what recommendations do you propose we impose on implementing the 477 Program and further enhancing its effectiveness in supporting the tribal community?

Mr. SPOONHUNTER. Thank you for the question, Representative Carl. It is always good to see you also.

As Ms. Zientek said earlier, we do a song and dance with all these agencies all the time. We are trying to educate and convince at some point to some agencies why these programs should be under 477. With the resiliency of tribes as we have worked together with our government the best way that we can, there are a lot of programs that need to go under 477, we could be here all day to talk about them.

But again, as you have seen time and time again as a Committee that the 638 self-determination, self-governance and 477 Programs work together. I think the agencies need to sit down with the Department of the Interior and need to be educated on why tribes are seeking funding and putting these programs under 477. They need to come to Indian Country and see why each tribe is very unique in their situation and why they want to do this program under 477.

Mr. CARL. My second question, can you share some success stories or key achievements your tribe has experienced as a result of participating in the 477 Program and how it has contributed to advancing the tribal's self-determination?

Mr. SPOONHUNTER. On the Wind River Reservation, we have about a 74 percent unemployment rate, which is very high at Wind River, and at one point one of our elders told our Tribal Council that the bridge out of poverty is education. So, through traditional education, cultural-based education, we have moved to enhance our work with traditional higher education and also vocational training, but also to think outside the box, and that is what this program is all about is thinking outside the box, is how do we educate and train our tribal members to go to work, to be culturally-based, self-sufficient, and self-sustainable, healthy families.

Mr. CARL. And you and I have talked about this before, but we are in need of about 6,000 to 8,000 welders, pipe fitters, and CDL drivers, and I heard you talk about CDL earlier, drivers in the Mobile, South Alabama area, and any one you want to send us, we will take them. So, thank you again. Thank you to the entire group for coming and speaking to us.

Madam, I return my time.

Ms. HAGEMAN. I want to thank the witnesses for your valuable testimony today. I think that any time we have a new program that goes into place, it is important to have a look back and understand what is working and what is not and then working with either the agency or Congress itself to make the changes that are going to make it work better. It has been a priority of myself and I know Ms. Leger Fernández as well to make sure that we do have

the autonomy and the sovereignty, and when I hear things like about the unemployment rate within the Northern Arapaho Tribe, it makes me that much more intent on trying to address that and provide the services, the training necessary, and the education so that we can bring these folks out of poverty and make them a very functioning member of society.

So, we really do appreciate your involvement today. We have had a lot of hearings over the last couple of days because we are just getting ready to go back into a recess on Friday, so I know some of our other Members are in other hearings right now or they would have been here. They know that this is an important issue. This has been a very bipartisan Subcommittee I believe throughout the last 14 months in attempting to address and resolve these issues and bring people in to better educate us on the issues that need to be addressed in Indian Country.

So, I wish that we had a bit more participation today, but again I believe it is in part because of the other hearings that are going on and people getting ready to head back to their districts.

The members of the Committee may have some additional questions for the witnesses and we will ask for you to respond to these in writing. I believe there is one question at least directed at you, Mr. Newland, and if you could provide us that information, I think it would be very helpful.

Under Committee Rule 3, members of the Subcommittee must submit questions to the Subcommittee Clerk by 5 p.m. on Monday, March 25, 2024, and the hearing record will be open for 10 business days for your responses.

If there is no further business, without objection, the Subcommittee stands adjourned.

[Whereupon, at 3:22 p.m., the Subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

Submissions for the Record by Rep. Westerman

Statement for the Record

**Gloria O'Neill
President and CEO
Cook Inlet Tribal Council
Anchorage, Alaska**

Chair Hageman and Members of the Committee, thank you for the opportunity to provide testimony for this important hearing on the 477 Program. I have had the privilege to serve as President and CEO of Cook Inlet Tribal Council (CITC) for 30 years, during the entirety of which CITC has successfully operated a 477 Plan integrating our employment and training and supportive services with our holistic, wraparound comprehensive services that connect individuals and families to life-changing self-determination.

CITC BACKGROUND:

CITC serves as the primary education and workforce development center for Alaska Native and American Indian (AN/AI) people in the Anchorage area. Approximately 70,000 AN/AI people—more than 40% of Alaska's total AN/AI population—live in the Cook Inlet region. In Anchorage alone, the Native population is almost 40,000. CITC serves any AN/AI person looking for services, regardless of their Tribal affiliation or original home areas.

Currently, CITC provides services to its participants via five core departments: Alaska's People (AKP), Child and Family Services (CFS) (child welfare social services), Employment and Training Services Department (ETSD), Recovery and Reentry Services (RS), and Youth Empowerment Services (YES) (including K-12 education support, after school and summer programs and workforce development). Additionally, two CITC affiliates contribute significantly to CITC's mission: Clare Swan Early Learning Center, providing Early Head Start/child care, and the Alaska Native Justice Center, which provides legal representation and advocacy for victims and survivors of sexual assault, domestic violence, human trafficking, and other crime and offers Tribal justice assistance, represents Tribes in ICWA cases being heard in Southcentral Alaska state courts and training and technical assistance for Tribal ICWA Workers.

As one of the nation's preeminent culturally responsive social service organizations, CITC offers programs that serve approximately 12,000 AN/AI people yearly, many of whom have come to recognize CITC as a community locus for assistance, support, and connection. A vital component of those services is CITC's role as the sole Tribal TANF provider in Anchorage and the Mat-Su Valley, which has been a tremendous success in moving people from cash assistance to work largely because it is incorporated into the Employment and Training Services Department and CITC's 477 Plan.

Employment and Training Services Department (ETSD)

Under CITC's 477 Plan, the Employment and Training Services Department (ETSD) assists Alaska Native and American Indian (AN/AI) participants in achieving self-sufficiency and finding meaningful, sustainable employment. As part of its comprehensive, wraparound Tribal TANF services incorporated in CITC's 477 Plan, CITC provides life skills development, access to education and treatment, childcare support, and case management between CITC and other service agencies.

Because TANF is a component of CITC's 477 Plan, fully integrated training services lead participants to vocational development and apprenticeship programs in various industries for highly skilled and in-demand occupations, including healthcare. Specifically, CITC's 477 Plan offers services that include:

- **Adult Financial Assistance:** temporary cash assistance and case management to Alaska Native/American Indian individuals and their families for paying bills, buying food, and making rent/mortgage payments, among other household expenses;

- Family Cash Assistance (TANF): temporary cash assistance for Native families with children. Qualifying families participate in career planning, training, and educational services, including the support services they need in their journey to self-sufficiency: childcare, transportation assistance, interview practice, and required funds for work clothes, tools, and other related supplies;
- Employment Assistance: support and resources designed to provide job seekers with the help needed to overcome challenges, improve their well-being, and achieve professional goals, including transportation assistance, interview and work clothing, tools, and other related expenses associated with obtaining, maintaining, and advancing their careers);
- Adult Education: fundamental math, reading, and writing skills while preparing for GED testing. Paired with CITC's GED Preparation program, individuals can improve and refresh their academic skills with tutoring support while earning a high school diploma, leading to better employment and increased wages. ETSD also offers workshops on life skills and workplace competencies. For many skills gained, participants earn digital badges, a recognized validation of training that can be included on resumes and job applications;
- Supported Employment: participants gain work and volunteer experience to increase their marketable job skills, build resumes and cover letters, and obtain full-time, non-subsidized employment after an initial training period;
- Vocational Rehabilitation: the program assists AN/AI individuals with disabilities to gain and maintain meaningful employment;
- Vocational Training Grants: multiple grants to help individuals pursuing training in various industries, including transportation, construction, automotive maintenance, welding, administration, healthcare, information technology, childcare, and more;
- Childcare Assistance: financial support for families needing childcare services for children under 13 while parents participate in employment, training, or educational activities. For parents visiting CITC's Nat'uh service center, the Nahtsahda Childcare Center offers on-site, drop-in care, which allows parents to concentrate on employment, education, or treatment activities while on the CITC campus;
- Youth Services: support with academics, life skills classes, case management, finding employment, and developing leadership skills for young Alaskans ages 14–24. The team also supports youth ages 12 and under with social and cultural activities and referrals for other needs;
- For work-ready people, CITC offers employment placement and referrals, career and job counseling, recruitment services for partner organizations, and access to a full-service career development center and staffed computer lab.

Other supportive services such as the Community Services Block Grant and Low Income Heating and Energy Assistance assist CITC's 477 participants in achieving their long term self-sufficiency goals. Additionally, the Tribal Training Grant helps fund short-term vocational training for needed job enhancement or to gain employment, and Native American Career & Technical Education Program (NACTEP) provides short-term vocational training for highly skilled and in-demand occupations. CITC also offers opportunities in quickly growing fields such as the health profession in meaningful career ladder progress.

FY 23 Impacts:

- Assisted 633 participants with personal and professional life skills classes.
- Enrolled 154 individuals in vocational and healthcare training.
- Provided childcare assistance to 199 families to support employment and education-related activities and served 306 children.
- Served 299 participants with utility assistance and six households with weatherization support.
- Served 347 youth with case management, supported employment, and supportive services with 95 subsidized youth employment placements and 69 youth entered unsubsidized employment.
- Met yearly successful participant closure rates for employment services for individuals with disabilities.

- Provided supportive services to support participants in employment to 786 individuals.
- Increased average hourly wage of participants by \$12.86.

OVERALL 477 PROGRAM BENEFITS:

The 477 Program is a critical federal initiative designed to reduce administrative burdens and support Tribal Self-Determination by allowing Tribes and Tribal Organizations to integrate multiple federally-supported Tribal programs into a single program governed by a single 477 Plan approved by the Department of the Interior (DOI). In turn, the Tribe or Tribal Organization reports back on an annual basis using a single consolidated reporting form. When allowed to function as Congress intended, the 477 Program has been a model of success that we hope will be emulated and expanded across federal programs. In particular, 11 of 12 regions in Alaska and several federally Recognized Tribes account for nearly half of the 477 Tribe and Tribal organization plans, and provide significant opportunity to leverage federal resources and programs in this very remote and hard to serve region. However, there are still a few issues in implementation that must be noted for the Committee.

OPPORTUNITIES

Expansion of Self Determination and Administrative Flexibility: DOI, and its Division of Workforce Development (DWD), has over the last year or so stepped fully into its role as Lead Agency under the 477 statute, as amended, and the more recently finalized 2023 MOA. DWD has supported Tribes and Tribal Organizations through the Plan approval and amendment processes as more Tribes join the Program and more programs are integrated, interfaced appropriately with the other federal agencies, and stood up for implementation of the 477 law as written and intended by Congress. Unfortunately, there is more work for that Office to do than can be done with the current resources available. CITC urges the Committee to work with its colleagues on the Appropriations Committee to provide additional resources to be used toward these goals.

In addition, CITC is happy to inform the Committee that, after many, many years of effort, its Tribal Vocational Rehabilitation and other Education programs as well as Low Income Heat and Energy Program have finally been integrated into its 477 Plan. In addition, more and more programs have been integrated under other Tribes' and Tribal organizations' 477 Plans, including recently the Department of Health and Human Services (HHS) Family Violence Prevention and Services Program (FVPSA), and the Department of Justice (DOJ) Victims of Crime Act Tribal Victims Services Set-Aside Program (TVSSA) and Office on Violence Against Women Grants to Tribal Governments Program (GTG). Integration of these programs into 477 Plans will allow Tribes and Tribal Organizations to provide comprehensive services that support the goals of both the underlying programs and the 477 Initiative as a whole.

As a final note, CITC calls the Committee's attention to "The Way Forward: Report of the Alyce Spotted Bear and Walter Soboleff Commission on Native Children," for which CITC's CEO and President served as Chair. Recommendations throughout the report reference the importance and success of braiding and consolidating funding and programs to benefit Native children and youth and improve their outcomes. In particular, Recommendation 25 specifically addresses the benefits of 477 and the importance of expanding its reach, and calls for increased funding to accomplish these goals.

Reduction in Reporting Burdens: Another positive development has been the overall reduction in reporting burden imposed on Tribes and Tribal organizations that are operating 477 Plans. If a Tribe were to operate each of the 44 federal programs currently integrated under a 477 Plan independently, for example, that Tribe would be required to provide at least 153 different individual reports. Under 477, that burden is reduced to a single three-component annual report and the resources that would have otherwise gone to developing each of those individual reports can instead be used to provide services to the community. The current 477 annual report form will expire in November, 2024 and a federal/Tribal work group is currently working on a simplified cumulative report. CITC supports the Federal/Tribal work group in that process, which worked very well the last time the reporting forms were modified.

Simplified Grant Renewal Processes: On a similar note, some agencies have embraced a simplified grant renewal process for programs that have been integrated under a 477 Plan. Tribal grantees understand that to include a grant within 477

Plan, the Tribe must apply for that grant. Certain agencies have acknowledged possible inclusion in a 477 Plan and provide specific instructions or even a simplified path for Tribes or Tribal Organizations to move forward as they apply to renew their grants. Some examples include the Department of Labor's Workforce Innovation and Opportunity Act (WIOA) Program, and HHS' Community Services Block Grant (CSBG) Program. CITC supports these efforts and hopes that other agencies will consistently apply this flexibility.

CHALLENGES

Unlawful Holding of Funds by DOJ: As noted earlier, following the 477 statute, BIA recently approved a Tribe's 477 Plan amendment to integrate DOJ's TVSSA and GTG programs. This should have been straightforward, as those programs are clearly able to be integrated because the Tribe proposed to implement those programs "for the purpose of job training, [job] skill development, assisting Indian youth and adults to succeed in the workforce, and encouraging self-sufficiency," as well as "services related to th[ose] activities" under 25 U.S.C. § 3404(a)(1). During the plan review process, DOJ disagreed with the integration of these programs, under the view that Tribes may only integrate programs that are specifically authorized for employment and training. Congress explicitly rejected that view in developing the 2017 amendments to the 477 statute (in fact, that was one of the main purposes of the 2017 amendments), and the affected federal agencies did as well in the 2023 MOA. DOJ then took the position (happily reversed prior to the legislative hearing) that it can refuse to transfer the funds even though the plan amendment has been approved. This is flatly contrary to the 477 statute's funds transfer requirements,¹ and if allowed to stand, would undermine both the 477 Program and this Committee's work in developing those funds transfer requirements.

Delayed Funds Transfers: There also remains a significant problem with certain agencies and programs transferring funds to BIA to be passed on to Tribes and Tribal Organizations operating 477 Programs. For example, one Tribal Organization has been waiting for funds from the Department of Commerce's Minority Business Development Agency for more than a year. Similarly, Tribes and Tribal Organizations waiting for Bureau of Indian Education funds have been delayed by nearly two years.

Frequency of TANF reporting: The Office of Family Assistance (OFA) has insisted on a quarterly reporting requirement for Tribes and Tribal organizations receiving TANF funds through their 477 Plans, though it is clear that 477, as amended, requires only one consolidated annual report for all programs; therefore, TANF data should be included when the tribal program does its annual reporting, whether on the federal fiscal year or in line with the period cycle. It appears that OFA may have decided to allow for annual reporting, and CITC looks forward to that change. If not, this has been a serious and recurring issue for Tribes and Tribal organizations that include TANF in their 477 Plans, and OFA should be instructed to require only one annual report as required by the legislation. In fact, no waiver is required because the language of the 477 amendment makes clear that only one report is required.

CITC strongly urges the Committee to ensure that the TANF program continues to receive reports in the integrated statistical report developed by the federal agencies in conjunction with the 477 Tribal Workgroup. That report contains all of the necessary information and keeps TANF in alignment with the requirements of the 477 legislation as amended. As OFA is aware, that statute provides that "Notwithstanding any other provision of law," only one report is required, and separate accounting of individual programs within a 477 Plan is not consistent with that Congressional direction.

CITC has the evidence as described above to show that the fully integrated approach is the most successful way to move people from cash assistance to unsubsidized work, reflecting the eloquent comment made at the consultation, "these are 477 clients, not TANF clients." OFA and Tribal TANF programs have the same goal: helping people to become self-sufficient, and the integration of services and braided funding that 477 allows makes that a reality.

¹25 U.S.C. § 3411(a)(2) and 25 U.S.C. § 3413(a)(1)(B).

Misunderstanding of the Waiver Process and Opportunity: Requests for waiver under the 477 legislation as amended allow the federal departments to waive both *regulatory and statutory* provisions as long as they are not in opposition to the underlying program requirements. Therefore, merely stating that a law requires quarterly reporting, for example, does not follow the opportunity of the 477 waiver process (and in fact, as described above, waiver should not even be necessary for reporting beyond the annual report per the legislation)—the analysis must be more open to lessening of administrative burden contemplated by the law; agency interpretation of allowable waivers must be more flexible in order to fulfill the statutory requirement to grant waivers unless in opposition to the underlying program goals and purpose.

Unlawful Meddling in Tribal Hires: Citing to the 2 CFR Part 200 Uniform Guidance regulations, some federal agencies, such as the Department of Education, have been requiring federal approval for personnel decisions made by Tribes and Tribal organizations operating pursuant to a 477 Plan. This is contrary to both the letter and spirit of the 477 statute, and nothing in the Part 200 regulations allows or requires this action.

Inconsistent Compliance Supplement. The May 2023 OMB Compliance Supplement has detailed requirements regarding the investment of 477 funds. However, 25 U.S.C. § 3413(g)(2) requires only that those funds are “managed in accordance with the prudent investment standard.” OMB should update the compliance report to be consistent with the statute and remove any additional requirements.

CONCLUSION

If its full potential is realized, PL 102-477 provides an unparalleled opportunity to streamline funding and programs for the maximum benefit to American Indian and Alaska Native people. Thank you for your oversight and attention to making this possibility a reality, and for the opportunity to provide this testimony.

**U.S. Department of Justice
Office of Legislative Affairs**

Hon. Harriet Hageman, Chair
Subcommittee on Indian and Insular Affairs
Committee on Natural Resources
1324 Longworth House Office Building
Washington, DC 20515

Dear Chair Hageman:

In advance of the Subcommittee's oversight hearing titled "Advancing Tribal Self-Determination: Examining the Opportunities and Challenges of the 477 Program," scheduled to take place later today, we are sharing relevant information regarding the Department of Justice's (Department) recent activity under the 477 Program. We hope this information aids the Subcommittee in its oversight.

The Department is fully committed to promoting and supporting Tribal sovereignty and self-determination, including through the full implementation of the Indian Employment, Training, and Related Services Demonstration Act as amended, also known as Public Law 102-477 (P.L. 477). The Department has previously supported integration of its grants under P.L. 477, including those funding prisoner reentry programs.

The Department's commitment to and support for Tribal sovereignty extends beyond P.L. 477. Our grantmaking components, which include the Office of Justice Programs (OJP), the Office of Community Oriented Policing Services, and the Office on Violence Against Women, engage with Tribes to ensure that all Department grants and other resources are as accessible and impose as few administrative burdens as possible. To aid in our efforts to achieve that goal, the Department has hired additional staff who bring deep expertise from different Tribal communities. The Department's grantmaking components are also engaged in efforts to increase outreach, support Tribes applying for funds through technical assistance, and make the application process less burdensome overall. Several new initiatives are underway to further ease administrative burdens on Tribal grantees. This includes the Office on Violence Against Women's piloting of reduced performance reporting for Tribal grantees and OJP's Office for Victims of Crime's substantive changes to how its Tribal Victim Services Set-Aside (TVSSA) program operates, answering Tribes' calls to administer the Tribal Set-Aside as a formula program.

We understand the Subcommittee may have questions regarding the Department's legal interpretation of the 2017 amendments to P.L. 477 as relevant to the Wyandotte Nation's 477 Plan. The Wyandotte Nation's plan proposed the integration of two discretionary grant programs that Congress authorized in the TVSSA in Section 510 of the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2023, and the Violence Against Women Act (VAWA). These programs were created to support Tribes and other entities in providing specific services to victims of crime and to support law enforcement in responding to sexual assault and domestic violence. Congress has placed significant restrictions and requirements on this funding, including various prohibitions on grant recipients, such as barring the sharing of personally identifiable information about victims served with VAWA funds in order to protect their privacy and safety. Congress also requires the Department to provide extensive reporting on victims served by service providers and other aspects of our grant programs. The issue of whether grants awarded for the purpose of providing victims' services pursuant to the TVSSA and VAWA qualify for integration under P.L. 477's enumerated statutory purposes related to employment and job training presents complex questions of statutory interpretation.

The Department is committed to supporting Tribal sovereignty and self-determination, including through the lawful implementation of P.L. 477. After careful legal analysis and the decision by the Secretary of the Interior to integrate the Wyandotte Nation's 477 Plan, the Department has concluded it may, in this circumstance, lawfully transfer to Interior funds under two discretionary grant programs and is moving quickly to do so.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

CARLOS URIARTE,
Assistant Attorney General

Submissions for the Record by Rep. Grijalva

Statement for the Record

United South and Eastern Tribes Sovereignty Protection Fund

The United South and Eastern Tribes Sovereignty Protection Fund (USET SPF) is pleased to submit testimony for the record of the House Committee on Natural Resources Subcommittee on Indian and Insular Affairs oversight hearing titled “Advancing Tribal Self-Determination: Examining the opportunities and challenges of the 477 Program” to urge full implementation of the PL 477 Program and expansion of its funding model into other areas. It is time to step into the next era of federal Indian law and policy—an era based in diplomacy, where the United States fully respects Tribal Nations’ inherent rights and authorities and fulfills its trust and treaty obligations. One important aspect of this new era is reshaping how the United States delivers federal funding to Tribal Nations, and the PL 477 Program is a key tool in that endeavor.

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 assisting its membership in dealing effectively with public policy issues.

A. Marshall Plan for Tribal Nations and Executive Order 14112

In recognition of chronic and ongoing failures to fund trust and treaty obligations, USET SPF has consistently advocated for a Marshall Plan for Tribal Nations, based on the principle that the United States should make a financial investment in Tribal Nations similar to that of the Marshall Plan through which the United States invested in rebuilding Europe after World War II. The Marshall Plan for Tribal Nations not only calls for a significant investment to bring Tribal Nations up to an appropriate baseline, but it also calls for sufficient, effective, and respectful funding mechanisms moving forward. It advocates for funding delivery and use parameters that are respectful of Tribal Nations’ inherent sovereignty. The Marshall Plan for Tribal Nations is gaining momentum, with Tribal organizations signing on and media coverage supporting the effort.

USET SPF celebrates that the White House has already taken steps to deliver on the foundational principles underpinning the Marshall Plan for Tribal Nations. Executive Order No. 14112, issued in December and titled “Reforming Federal Funding and Support for Tribal Nations To Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination,” seeks to assign a dollar amount to the United States’ unmet obligations to Tribal Nations, and also mandates federal agencies utilize flexibility to facilitate Tribal Nations’ exercise of our inherent sovereignty in our use of federal funds. The Executive Order explains: “We must ensure that Federal programs, to the maximum extent possible and practicable under Federal law, provide Tribal Nations with the flexibility to improve economic growth, address the specific needs of their communities, and realize their vision for their future.”

¹USET 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 Wampanoag Tribe of Gay Head (Aquinnah) (MA).

B. Support for PL 477 Program

The PL 477 Program is one tool through which appropriately flexible federal funding can be delivered to Tribal Nations, and fully implementing and expanding the funding mechanisms of the PL 477 Program is integral to both the Marshall Plan for Tribal Nations and Executive Order 14112.² The PL 477 Program serves as a next step in the evolution of federal funding for Tribal Nations, and it is a model we hope to see replicated in other areas. It is revolutionary in that it authorizes Tribal Nations to consolidate diverse federal funding sources from across 12 federal agencies into one, streamlined Tribal program designed by the Tribal Nation to help its struggling community members achieve self-sufficiency and stability. The bedrock principle of the 477 Program is to enable Tribal Nations to exercise our inherent sovereignty in our use of federal funds, in addition to promoting the improved integration and streamlining of Tribal Nation programs and reporting.

The 477 Program removes strings tied to federal funding such that Tribal Nations may pool and reallocate federal funding integrated into our 477 plans across the services provided through our 477 plan. 25 U.S.C. §§ 3413(a)(1)(A), (a)(2), 3410(b)(3). Integrated funds that are not obligated or expended remain available without fiscal year limitation. 25 U.S.C. § 3413(b)(1). The PL 477 statute creates authority to waive integrated programs' statutory, regulatory, and administrative requirements that get in the way of streamlined operation. 25 U.S.C. § 3406(d). And the PL 477 statute removes all reporting requirements tied to integrated programs, instead requiring just one comprehensive annual report on implementation of the 477 plan. 25 U.S.C. § 3410(a)(2)(A), (b). These are only a few of the 477 Program's functions, all of which are designed to put more decision-making power in the hands of Tribal Nations and remove federal impediments so that we can better respond to the needs of our communities.

The 477 statute sets forth three criteria that define the universe of programs eligible for integration under the PL 477 Program. First, the program must be operated by one of the 12 covered federal agencies. See 25 U.S.C. § 3404(b). Second, the program must be implemented for one of the covered purposes, which are designed to be broad so that they encompass not just employment and training programs but also related supportive services. 25 U.S.C. § 3404(a)(1)(A). Third, in order for a program to be eligible for integration into a 477 plan, it must receive a covered type of funding. 25 U.S.C. § 3404(a)(1)(B), (a)(2). When a program meets these three eligibility criteria, as determined by the Department of the Interior (DOI), 25 U.S.C. § 3407(a), it is eligible for integration into a 477 plan.

USET SPF is invested in seeing the PL 477 Program succeed, be implemented to the maximum extent permissible under the law, and be replicated for other types of federal programs. It is one step toward a future in which Tribal Nations are freed from the obstacles preventing us from utilizing federal funding as sovereign nations.

C. Call for All Federal Partner Agencies to Fully Implement PL 477

Despite the importance of the PL 477 Program and what it means for delivery of federal funding to Tribal Nations, some federal partners have historically—and currently—prevented full implementation of the PL 477 Program. They have opposed integration of programs they operate and attempted to maintain control over funds after their integration.

We believe these issues tie back to concerns of officials or staff within federal partner agencies about losing control over programs they operate. Many of these individuals are not accustomed to working alongside Tribal Nations. Full implementation of the PL 477 Program requires all parties to understand and respect Tribal sovereignty and to believe that Tribal Nations are equipped to do what is best for our people.

We ask Congress to ensure the federal partner agencies have an appreciation of the principles behind the PL 477 Program—including the trust and treaty obligations it is designed to fulfill and Tribal Nations' sovereignty and self-determination it is intended to respect. We call on Congress, the White House, and leadership within each federal agency to make clear that all government officials and staff must comply with the PL 477 statute. Additionally, it is essential DOI has the tools and backup necessary to ensure all federal partners and program officials and staff fully implement the 477 Program. Indeed, the White House through Executive Order 14112 has already recognized its obligation to assist federal agencies to

²The 477 Program was authorized under the Indian Employment, Training, and Related Services Demonstration Act of 1992, Public Law 102-477, which was amended in 2000, Public Law 106-568, and again in 2017, Public Law 115-93. The 477 Program is codified at 25 U.S.C. §§ 3401-3417.

identify and utilize opportunities to increase funding flexibility for Tribal Nations, and to intervene when federal agencies refuse to do so.

All federal partners must be made to understand that it is DOI that has exclusive decision-making authority over whether a program meets the PL 477 eligibility criteria for integration into a PL 477 plan. 25 U.S.C. § 3407(a). They must acknowledge there is no separate legal authority authorizing any federal partner to avoid transferring funds associated with a program DOI has approved, and instead the PL 477 statute mandates funds be transferred promptly. 25 U.S.C. § 3412(a); see also 25 U.S.C. § 3410(a)(2)(D)(ii).

All federal partners must also understand the covered purposes are broad and designed to include supportive services, not just programs authorized specifically for employment and training. 25 U.S.C. § 3404(a)(1)(A). A restrictive interpretation undercuts Congress's intention to facilitate Tribal Nations to create wraparound self-sufficiency programs for our people.

All federal partners must understand that, once a program is integrated into a PL 477 plan, every reporting requirement tied to that program automatically falls away and is replaced by the annual PL 477 report. 25 U.S.C. § 3410(a)(2)(A), (b). They must also understand that all funds integrated into a PL 477 plan may be pooled and reallocated across services within the 477 plan. 25 U.S.C. §§ 3413(a)(1)(A), (a)(2), 3410(b)(3).

All of these things and more happen as an automatic function of integration into a PL 477 plan. On top of these automatic functions, all federal partners must understand that the PL 477 statute itself creates authority to waive requirements associated with the integrated programs, including when those requirements are found in the program's authorizing statute. 25 U.S.C. § 3406(d).

Federal agencies that refuse to implement these congressional mandates must face real consequences. Only after they are made to comply with the mandates of the PL 477 statute will they understand that Tribal Nations will exceed their expectations in reshaping the services carried out through the programs they operate.

D. Department of Justice Position

We recently learned the Department of Justice (DOJ) has taken the position it has separate legal authority to refuse to transfer program funds into a Tribal Nation's PL 477 plan when it disagrees with DOI's assessment of program eligibility.

The Wyandotte Nation on February 26, 2024, received a positive determination from DOI approving integration of two programs operated by DOJ into Wyandotte's PL 477 plan. While DOJ eventually agreed that the programs were eligible for integration and said it would transfer the funds, it preserved its position regarding its alleged separate legal authority. In a letter submitted on the record for this oversight hearing, DOJ said: "After careful legal analysis and the decision by the Secretary of the Interior to integrate the Wyandotte Nation's 477 Plan, the Department has concluded it may, in this circumstance, lawfully transfer to Interior funds under two discretionary grant programs and is moving quickly to do so." Thus, DOJ doubled down on its position that in other circumstances and based on its own legal analysis there may be situations where it is unlawful to transfer integrated funds.

We are concerned that DOJ's position could be adopted by the other federal partner agencies and used as a mechanism to refuse to integrate the full scope of eligible programs into Tribal Nations' PL 477 plans. Such a position could derail the success of the PL 477 Program, which we view as integral to the evolution of federal funding delivery to Tribal Nations. We join Assistant Secretary for Indian Affairs, Bryan Newland, in emphasizing that this position is deeply regressive and fails to reflect the spirit and intent of EO 14112 or the PL 477 Program in any way. We urge you to impress upon DOJ that it has obligations to support Tribal Nation sovereignty, including under the PL 477 statute as a federal partner agency, and that to shirk those obligations contradicts the law.

Conclusion

We appreciate your attention to full implementation of the PL 477 Program. Please reach out to Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at lmalerba@usetinc.org and Katie Klass, USET/USEP SPF General Counsel, should you have any questions.