

Moderator: Hello and welcome to today's live SBA web conference. Please note that all participant lines will be muted for the duration of this event. You are welcome to submit written questions during the presentation, and Deborah Crumity will repeat the questions that come in for the benefit of the entire group. To send a note, please select the participants menu at the top of your screen, and opt to send note to all presenters.

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I would now like to formally begin today's conference and turn the call over to Jan Kaiser. Jan, please go ahead.

Jan: Thank you, Carla. Hello everyone. Happy November. And welcome to the SBA's First Wednesday 2018 webinar series. This webinar series focuses on getting subject matter experts about small business programs to provide information you can use in the performance of your job as an SBA employee, member of the Federal acquisition community, or a PTAC or SBDC.

I periodically get emails asking if small business concerns can be invited to participate in the First Wednesday program. And this topic, that we are having today, generated more than the usual number of emails asking this question. And the answer is – no. Because SBA hopes to train small business concerns using other methods. But let me tell you a little more about how and why the SBA First Wednesday program started.

SBA's procurement center representatives – or PCR's – which, I'm a PCR. We are tasked with conducting training for procurement personnel located at our assigned procurement centers or federal buying activities. This is to assist in keeping them up-to-date on changes in the procurement processes that may impact small business.

So in 2008, Dwight Johnson, a PCR from SBA's Office of Government Contracting in Area 4 – he created what was called the 1102 First Wednesday program. Which began as a scheduled conference call to provide small business training to contracting personnel at his assigned buying activities. Some of them were rather remote, within the large geographic area that he covered. And so over time, Dwight worked to increase the number of conference call lines that he had to work with, some 25 to 50. And then eventually began utilizing the AT&T

GoToMeeting application that we're using today, with up to 1000 participants able to participate in the presentation.

So the 1102 First Wednesday program was not created to have small or large business participation. As I mentioned, the conceptual framework was created for a contracting staff, which is why the training series was called 1102 First Wednesday. The 1102 occupational designator for contracting personnel in the training title, was dropped to be more inclusive of other GS-series, as federal agencies increase the requirements for non-1102's, to obtain DAWIA and FAC-C certification.

And in recent history, DOD has changed the number of their small business specialists to be in the 1101 series. So we certainly want small business specialists to be included in this training, as well. So additionally, other federal buying activities, SBA staff, and our resource partners, like PTACs and SBDCs – Small Business Development Centers – heard about the training and requested to be added on the list of invitees.

So that is why SBA's First Wednesday program is aimed at Federal Government employees and our resource partners, like PTACs and SBDCs – because we as a community need training, too. So that's just a little background.

So, thank you to those of you who are repeat attendees and welcome to those of you who have taken the time out to experiment and see what this program is about, and are new to the program.

So, as Carla mentioned, I am Jan Kaiser and I work as a procurement center representative in Chicago, Illinois, or PCR. Additionally, Deborah Crumity is the SBA PCR assigned to the Rock Island Arsenal, and she will be reading your questions submitted during the program for our speaker to address towards the end of today's session.

We hope you have had a chance to settle in, now. And you want to hear a little bit more about how today's webinar works. All the lines are on mute, but we will address questions that we have received during the program at the end of our speaker's presentation. Just submit them via the Chat Box.

And once again, if you are having technical problems and can hear my voice, but cannot log on to the AT&T Connect participant application, which is the online portion of the webinar, call the AT&T Connect Support desk at the telephone number that is printed here on slide three – that's 1-888-796-6118. Now if you didn't get that, the telephone numbers for the AT&T Connect Support desk are on

the email invitation for today's program and on slide three of the PowerPoint deck that accompanied the SBA email notifying you of today's training.

Otherwise, just keep listening in and following along with the PowerPoint that accompanied the invitation for today, because we will periodically announce the page numbers, so you can keep up.

And for more SBA small-business training, you can visit the SBA website at SBA.gov, and visit the SBA Learning Center there. So, we are on slide 4 now. And this is a bit more about how the process works. The sessions are recorded and the Association of Procurement Technical Assistance Centers – or APTAC – hosts a website where they post past First Wednesday programming. And their website is provided here on slide four.

Please note the slide deck for today's program has been modified from the PowerPoint that was originally emailed along with the invitation for today. Some of the slides have been edited, or added. Grab a notepad and just listen to the information as it is presented. And the new slide deck will be posted on the APTAC website shown on slide four.

Procurement Technical Assistance Centers, or PTACs, are a great resource. And partnering with a PTAC for an industry day, sharing a sole-source notice and RSI notices or referring small business concerns to a PTAC, are just a couple of reasons that PTACs are such a useful resource for acquisition personnel.

This slide, slide five, is the current program schedule for fiscal year 2018. There are a couple of topics that we have not done before. This is because we reviewed the topics suggested by the audience as a part of a survey we conducted a few months ago. We appreciate all of you who provided the small business program topics to be considered for this series. We hope you find these topics interesting and applicable to your job. So next month is "SBA Programs You May Not Know About," and that would include Natural Resources Assistance/Disaster Assistance, and that is certainly topical. So we are looking forward to that program.

So, slide six. Today's program is one continuous learning point. Or, one CLP. I'm sure many of you will be wanting to get credit for attending today's training. On slide seven, and I'm going to move to that slide – that's the certificate. You will fill in with your name, using the PowerPoint slide deck that was sent with the invitation for today's training. Fill in your name and print the certificate from the PowerPoint to request credit for today's session. The PowerPoint is part of the SBA's invitation, remember. And so it is in that slide deck, and not something that you can download from your screen right now, unless you do a quickie

screenshot. But you still need to edit your name and then, SBA does not track your CLP's, or communicate with your training program regarding your CLP achievements.

If you want to receive an email directly from us, notifying you of the First Wednesday webinars, and you want to subscribe – just send us an email requesting to be added to the list, to the SBA Learning at the SBA.gov address that is listed on slide six.

So, we're going to go through slide seven – that's a repeat. You'll see the certificate that you are going to self-serve and create your own training certificate.

So, just a quick update on SBA and NAICS codes. Many of you may already be aware that effective October 1, 2017 – the SBA incorporated the US Office of Management and Budget, or OMB's, North American Industry Classification System – or NAICS revision for 2017. Which is now identified as NAICS 2017.

So, SBA updated its table of the NAICS codes which resulted in numerous changes. So NAICS 2017 created 21 new NAICS industries, by reclassifying, splitting, or merging 29 industries, or their parts, previously under NAICS 2012.

Here's the link to the Federal Register, announcing this change, and the new size standards table located on the SBA.gov website. I have the size standards table marked as a favorite in my Internet browser. So when I review proposals for procurement, I can easily find it. If you do that, you may want to make sure that you mark the SBA size table effective October 1, 2017, as a favorite on your Internet browser, as well.

If you have any questions about how these changes might affect the procurements that you may be working on, you will want to contact a PCR in your area. So locate the PCR that covers your activity. Additionally, because the Women-Owned Small Business Program is a NAICS-based program, on October 11, 2017 – SBA also updated the NAICS codes applicable to the Women-Owned Small Business Program, to align with the new 2017 NAICS code.

This update reduces the number of four-digit NAICS industry groups eligible for procurements under the Women-Owned Small Business Program, from 113 to 112. Because NAICS 2017 merged two NAICS 2012 industry groups. And those were NAICS 5171 and 5172, which became one group – 5173.

So the link to the Federal Register announcement for this change is provided here on slide eight.

So now we are going to get into the program, which I know everyone has been waiting here about. Today's topic evolved from the survey that we took earlier. We've not had an SBA Native American program as a topic on the First Wednesday program before. So, we are really excited to do this one.

Our speaker graciously accepted our invitation, and will be directing me to change the pages, as we need to progress through the slides. There may be some delay as the slide changes on your screen, and that's just the way the webinar works.

Our speaker today is Maymangwa Flying Earth. She is an Attorney Advisor with SBA's Office of General Counsel in Denver, Colorado. With her today is Laura Foster, who also with SBA's Office of General Counsel in Washington DC.

Ladies, we are very pleased, you could be with us today, and I will turn the program over to you.

Maymangwa: Thank you, Jan. Thank you everyone for joining in today. I think that the topic today is particularly fitting because November is recognized as Native American Heritage Month. So, to do this educational program is a great way to kick off the month.

As Jan said, my name is Maymangwa Flying Earth. I am a tribal member of the Gila River Indian Community which is in southern Arizona. I grew up in South Dakota on the Standing Rock Reservation, and I'm also part Ojibwe from Minnesota. And if you can say my name today, Maymangwa, then you can speak a little bit Ojibwe – it means butterfly in Ojibwe.

I'm also an attorney with the Office of General Counsel. I've been with SBA for almost 8 years now. And I have, since being with SBA, worked quite a bit with the entity-owned, or what we are calling today Native American entity specific programs that SBA offers. And while the SBA does have an Office of Native American Affairs, at this time we have not yet gotten an appointee. So, I have stepped in to give this presentation, where they might otherwise have given it. So, we will reference to contact information. They do serve as a resource and there is some great information on their website that we will reference later.

As Jan mentioned, with me, is my colleague, Laura Foster. Laura, do you want to give a quick introduction?

Laura: Sure. I am in our Office of General Counsel, Office of Procurement at headquarters. And I have been at the agency, a little over six years now. My

practice focuses on mainly the Native Hawaiian organizations, so I'll be talking about that a little bit later and back to you, Maymangwa.

Maymangwa: So, we'll start with slide 11. And I think definitions are important, but before I get into the definitions, I really wanted to give a little bit more history or policy background about tribes, Alaskan Natives and Native Hawaiians. I think when we are looking at our programs. It helps to understand how some of these programs came to be, and the policy behind them.

So, bear with me, and I will talk a little – very briefly – about brief historical things related to American Indians and Alaskan Natives and Native Hawaiians. So, if we start thinking about that, as many of you know, American Indian and Alaskan indigenous people have been here for some time. So, when we think about when the country was first being settled, or extended, or discovered – however you want to phrase that – there was a lot of confrontation, a lot of interactions between tribal indigenous people and settlers.

So if we're thinking about that and look at what we have called Western Expansion, or what's happening at the time when this country is being settled, and people are encountering other people who have already been here – that era is really called like a "treaty making era" or a "reservation era" or "colonization."

So, in the early 19th century, one of the tactics in dealing with the indigenous population was to make treaties with these indigenous groups of people. And at that time, there was believed to be over 600 different groups of people. Tribal groups of people. And also, what was happening during this time is a lot of tribes were being put onto reservations or particular tracts of land. And the government, at that time was also making these treaties. There were over 200 treaties that the government made with tribes. So that really kind of started the interaction between tribes and the US government – what would become the US government.

As that relationship progressed, we moved into another policy era that is recognized as "allotment and assimilation." So, I think the government was always looking at this issue and how they dealt with tribes as the "American Indian problem." How are we going to deal with this? So, the next policy era was allotment. And what that meant was, that the government was trying to privatize how the land was held. So, whereas before, the Native groups maybe didn't see themselves as landowners, but rather stewards of the land, the government imposed this ownership system and so the land was divided into private ownership of allotments.

And the other idea was to assimilate Native people into mainstream American culture. So, this period of time was really from the 1880s to the 1940s and this

was how the government was attempting to deal with how they interacted with indigenous people.

Moving on to the next era, which was commonly titled "termination or relocation." The government had sort of created this complex relationship with tribes that really resulted in this like federal responsibility over tribes. And that has evolved into what we now know as federal recognition of tribes. And the government did this as a way to interact with tribes. And they were realizing that it wasn't going very well.

So, in the 1940s, the government came up with another idea. It was like, well, maybe we should just end this relationship. So, it was called termination. And they did select a few tribes and ended the formal relationship between American Indian tribes and the government. That did not go over very well. A lot of the tribes that were terminated, sought to reestablish that relationship. Because the relationship had evolved to be something that tribes were relying on.

And also, what was happening during this time was that a lot of tribal people were being relocated from their reservations to urban areas. So, the government was looking to see that the reservations idea was not working out that well.

Reservations were incredibly impoverished and suffering quite a few social ills. And so, in an effort to solve that problem, they thought, well, let's move the American Indian people off the reservation and into urban settings in an effort to assimilate and better their situations.

So that occurred up until the 1960s, and then in the 1960s there was a significant shift into what we are now experiencing, which is called the "tribal self-determination era," and this is an era where tribes are now being recognized by the government as an independent nation capable of governing itself.

So, with that sort of framework in mind, I want to talk a little bit about this relationship that has evolved with the government and how federally recognized tribes – that's a term that you'll see, quite a bit. Federally recognized tribes mean that that tribe, that particular tribe, and there are over 562 federally recognized tribes, that particular tribe has some sort of an independent basis for having a relationship with the US government. Either there was a treaty at some point, or there was some way that that relationship had evolved to have this federally recognized relationship.

There are several tribes that are in the United States that do not have that status. And they are either state-recognized or they are just unrecognized. So, I know that can be confusing when we are dealing with who counts as a federally recognized

tribe. And for purposes of federal recognition, all of those tribes are listed in the Federal Register.

So, one of the attributes of federally recognized tribes, is that they have what we call sovereign immunity. And that comes out of this unique relationship that has evolved with the government. So that means that they are not bound by state laws. But many of these tribe's own lands that's held in trust by the government. Meaning that the government acts as the protector of that land, and that land is exempt from state laws and taxes and also exempt from federal taxes.

And another attribute of federally recognized tribes – it means that they have their own governance system that is separate from the United States government, or separate from states. So, a federally recognized tribe means that they have their own unique kind of governance system. As a general matter, the tribes are located generally in the lower 48. There are some tribes in Alaska. And for purposes of federal statutes and programs, the definition that you see on slide 11 is derived from the Indian Self-Determination and Education Assistance Act of 1975.

So that definition applies to several federal programs, in particular, the SBA regulations. And in that, it means that a tribe is any Indian tribe, band, nation, or other organized group or community of Indians, including an Alaskan Native Corporation – which we'll talk about in a moment – which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

So, drawing on that brief historical overview that I gave that "eligible for special programs and services" really comes out of this relationship that has been evolved over time between tribes in the United States government and the United States acting as a trustee or protector of tribes, and recognizing that they have a certain duty to ensure that tribes are succeeding.

Another part of the SBA regulations, is that we also recognize tribes that are recognized by states. So that is somewhat unique. In that, when you talk about tribes, the distinction between federally recognized tribes, and state recognized tribes, SBA does acknowledge the state recognition of tribes. And that really does vary across the board, state to state. But for purposes of our programs, we do include state recognized tribes.

So the next slide defines Alaskan Native Corporations. So, this is a fairly new distinction. And if we think back to the timeline that I just talked about, American Indian tribes and Alaska Natives were in their places, dealing with settlers and colonizers. I think that probably when the state of Alaska was formed, Alaska was one of the last dealt with. And so, looking and seeing what was happening in the

lower 48, and that there was this, what was commonly known as the "Indian problem" and what is the government going to do about this – they were looking for something different to do with Alaskan Natives.

And so, this is again in the self-determination era, the Alaska Native Claims Settlement Act was enacted in 1971. And that Act formed Alaskan Native Corporations. So, before that time, they were just Native people living in Alaska, rather remotely. And I think the government was really not entirely sure how to interact with them. So, in the self-determination era, looking at how to address the "Indian problem," and how can the government take a more proactive approach in assisting Alaskan Natives and, tribes, for that matter, to more prospectively deal with the issues that plague those communities, and this system was set up.

And what it did was organize them into corporations, that were based on the business model. So, a corporation, then, could be very different from what was set up in the lower 48, as a tribal governance structure. And so, the corporations, are numbered at 13 regional corporations covering 13 large areas and within those regional corporations, there are over 200 village corporations that are made up.

So Alaskan Native Corporations have a little bit of the unique distinction from American Indian tribes from the way in which they are set up. And they are organized under the laws of the state of Alaska in accordance with the Alaska Native Claims Settlement Act. So, the differentiation there, was tribes. The tribal governments are set up uniquely between the tribe and the US government and the state is not coming in and dictating what that relationship looks like. Whereas the State of Alaska has quite an elaborate definition of how those corporations will be formed.

So, despite this unique structure – the Alaskan Native Corporation – the Alaskan Native people still experience significant issues, if you can imagine, related to their remote location, the high cost of living expenses, the lack of resources and, in general, the only way in and out of these villages is to fly. So, while this system seems to have helped, and there have been some government successes with the ANCs, it still has not yet entirely translated into a windfall for Alaskan Native people.

So again, looking at SBA's program, we do have specific rules that are unique to Alaskan Native Corporations, and we recognize the unique attributes of those corporations and have those definitions defined in our regulations in accordance with ANCSA. And then we also have a definition for who is an Alaskan Native, and that's included on slide 12.

And the next slide is really talking about the Native Hawaiian Organizations and I will let Laura speak a little bit to that.

Laura: Sure. While Native Hawaiians obviously have a significant history in terms of how they interacted with European settlers and then later, the US government – the context of a Native Hawaiian organization in the context of government contracting, that we will be talking about – was actually created through an amendment to the Small Business Act in the late 90s. So, they are defined as a community service organization serving Native Hawaiians in Hawaii, which is a not-for-profit, chartered by the State of Hawaii and is controlled by Native Hawaiians.

For our 8(a) programs, in terms of their eligibility for that program, we recently changed the way that we define economic disadvantage. Which sort of highlights how SBA gets to help define how these entities need to operate. So currently, these NHOs establish economic disadvantage in the same way that a tribe would.

Maymangwa: So, all of these definitions play into the most important program, I think – one of our primary programs that really defines how we interact with these Native entities. Which is the 8(a) programs. So, we'll talk about that next, on slide 14.

And, again, let me just note some of the policy reasons for the 8(a) programs, again recognizing that tribes and ANCs suffer some of the worst poverty rates in the country and are in counties that are the most economically depressed. The government, and Congress has recognized, in line with the federal trust responsibility, it is both appropriate and necessary to use the federal government's procurement system to help activate reservations and ANC communities. So, in that light, Congress has afforded tribes and ANCs and Native Hawaiians unique rights in the federal procurement process. And we'll talk a little bit about what that looks like in the 8(a) programs.

So, this slide really talks about some of the eligibility requirements for a tribe to participate in the 8(a) programs. And the first bullet means that the tribe must be organized for profit – rather, the firm must be organized for profit. The articles of incorporation must contain a sovereign immunity waiver or what we call, "sue and be sued" language that designates federal courts with jurisdiction over SBA program matters.

So that idea speaks to the opportunity that exists for American Indian tribes, in particular, to ensure that if they are participating in an SBA program, the federal courts would have jurisdiction over those programs. Without that waiver, then that would mean that the tribal court systems would have jurisdiction. And that is,

again, unique to tribes, not necessarily ANCs, because of the differing structures of the two.

Another requirement is that the tribe has to own at least 51% of the firm, either directly or through a wholly owned subsidiary of the tribe. And unique to tribes, they may own these businesses through their ordinary system, or they may have these what we call Section 17 corporations that are specifically set up to have segregated business assets and liabilities from that of the tribe. The section 17 corporations are referenced under the Indian Reorganization Act. And we know that they exist because they have been sanctioned by the Secretary of the Interior, through a special charter that is designated for those tribal businesses. So that gives a little bit more of a commercial or business aspect to these tribal businesses.

Again, speaking about the 8(a) programs, and really thinking about some of the unique rights that tribes and ANCs have in the program, there are over 300 Tribal, ANC, and NHO owned firms in the program.

And again, that next bullet speaks to what I said already, sort of the policy purpose of the 8(a) program is to assist these entities in helping to boost the economic development. In one of the benefits that I think probably is most important for tribes and ANCs is that the 8(a) participants are eligible to receive sole-source 8(a) contracts, regardless of dollar size, while all other 8(a) firms may not receive sole source contracts in excess of \$4 million for services and \$7 million for manufacturing. But the requirements for justification is still required for procurements that are over 22 million. Laura, do you have anything to add on this particular...

Laura: No, just that currently, that justification is different from a (?) justification, so you will want to follow, I think, FAR part six, in drafting that justification. If you want to do a sole-source over 22 million to an entity-owned firm.

Maymangwa: So those are really our bullet points on the 8(a) firms. The next one is still just specific to 8(a) – slide 16. But I really wanted to emphasize the differentiation between a Native entity-owned versus just a Native-owned. And I think that this can sometimes get confusing for some. So, what we talk about when we mean "entity" – we are referring specifically to the federally recognized tribes, or state recognized tribes, an ANC, or an NHO that owns the firm, through its particular unique structure – whether it's the tribal government or the Alaska Native Corporation or the Native Hawaiian organization, itself owning the firm.

Sometimes there are people that come in and say, well, the group of us – the five of us – we're all tribal members and we independently owned this firm. Why can't

we be considered a Native entity-owned firm? So, again, were looking at those specific definitions that we talked about in the beginning – federally recognized tribes, ANCs, and NHOs.

The other way of owning would be "Native owned." So tribal members, or ANC members or individual Native Hawaiians may individually own their firms. And so, we've got those designations of Native owned or Alaskan Native owned. They may not necessarily refer to an "entity owned" firm. And the reason for that, that it's important to recognize those designations, is that the tribal, ANC, and NHO firms may have more than one company in the 8(a) programs at a time. They are allowed to be in the program at the same time, so long as they have different NAICS codes, and a second company in the same NAICS code might be allowed, with a 2-year gap between their participation.

So, I know that, at times, that can be confusing, but again, those are the unique attributes that are allowed for the entity owned firms versus the individually owned firms.

Slide 17 is about size issues, again relating to 8(a). Laura would you want to speak on that?

Laura: Sure. So statutorily, entity owned firms are granted sort of broad exceptions to our affiliation rules. So, for purposes of 8(a) program eligibility and 8(a) contract awards, a firm's size is determined independently from any potential affiliation with the tribe. Any other business owned by the tribe or ANC or NHO, as the case may be.

And the only reason that we might find affiliation is if the entity itself has obtained or is likely to obtain a substantial unfair competitive advantage within an industry category. So essentially, if an ANC has proven entirely dominant in a particular NAICS code or industry, then we may find an 8(a)-participant owned by that ANC to be other than small, based on their affiliation with the ANC. But other than that, the firm's size is determined alone. So, if the firm's receipts are below the applicable size standard, or they have a number of employees smaller than the applicable size standard, then they would be small without considering any other firm's subsidiary, or whatnot.

So, for purposes of size, just outside the 8(a) programs, if we're talking about a small business set-aside, or something like that, the exceptions to affiliation are slightly less broad. So, our regulations say that a subsidiary firm will not be considered affiliated with the parent entity. So, any entity owned firms will never be found affiliated with the entity itself. And they also will not be considered affiliated with sister subsidiaries based solely on common ownership or

management. They can also share common administrative services without being found affiliated. But other potential grounds for affiliation, like identity of interest, and those things – the firm can be found affiliated for peer size purposes outside of the 8(a) programs.

Maymangwa: And also along those lines, with the ANC, there are some subsidiaries that would be allowed for them to use their sister subsidiaries for half performance and not result in affiliation. And there was a size case that I recently spoke about that really sort of makes sense in the idea that the way that the companies are formed and made up, we recognize that the ANC has an interest in making sure that these businesses thrive and do well. And that they are going to lend their resources, but again, we're looking to make sure that those lines are not crossed, in the way that Laura was just talking about.

But that we also recognize that the way that the structure is, that there are going to be certain relationships between these entities. And affiliation won't automatically result because of common management.

And I think that really sort of covers what we were going to talk about in terms of size. And that will lead us to our next slide on HUBZone, slide 18. So the next program that is important to SBA – and again looking at these programs that are specifically involved with tribes or ANCs or Native Hawaiians – have HUBZone as our next most important one.

And the definitions on that slide, really just speak to what is required for business to participate in that program. Meaning that they have to meet the small business size standards for the particular NAICS code. Native entities have to be owned 100% by the tribes or Alaskan Natives or NHOs.

And again, those – I guess the unique attributes of a HUBZone with tribes, is that the tribes – again, thinking about the reservations, the land within the external boundaries of the reservation is considered a HUBZone. So that's how tribes have a unique way of participating in the HUBZone program. The principal office has to be within the HUBZone. A minimum 35% of employees must live within a HUBZone – but that does not have to be same as their main office.

The next slide talks about what is a unique allowance for tribes. And that is that at least 35% of its employees engaged in performing that contract will reside within any Indian reservation governed by one or more of the Indian Tribal Government owners, or reside within any HUBZone adjoining such reservation.

I can't speak specifically to how that works. But there are these two ways that a tribe can come into the HUBZone program and participate. And thinking about

the reservations and how those have been set up and how there are not reservations for ANCs or NHOs, that allowance is unique to American Indian tribes.

Laura, did you have any other notes on the HUBZone program? Yeah, it's pretty self-explanatory, and again, I think those distinctions are really kind of what are the things to know in regard to those Native entities.

Laura: I guess maybe we should point out that unlike 8(a)'s, there are no special contracting roles for entity owned firms participating in the HUBZone program.

Maymangwa: Slide 20. There are two other programs that SBA has specific to procurement. And those are the Women-Owned Small Business program, and the Service Disabled Veteran-Owned programs. And I just mention them here because, while they are very important SBA programs, the entities are not eligible for those programs simply because of the way the language is set out. In that they are required to be owned individually by a woman for the Women-Owned Small Business program and individually owned for a Service Disabled Veteran Owned. So, if we just think, and sort of common sense is, the entities can be made those designations because they are entities, rather than individuals. So that's why we mention that here.

The last two substantive slides – really 21, we mention here in that it is not an SBA program. But we recognize that it's an important program that affects many of you, and that would be the Buy Indian Act, and so there's some information here about where you can find more information about that. We really don't have much else to add to that, since, again, it's not an SBA program. But we recognize the importance of that program.

And then the next one, 22, is the DOD Indian Incentive Program, which again is not an SBA program, but – Jan, I don't know if you had any other notes just to mention on that.

Jan: Just briefly, if you – going back to the Buy Indian Act – those rules apply to those agencies that follow the supplement to the FAR, which is the DIAR – the Department of the Interior Acquisition Regulation. And as Maymangwa mentioned, the hyperlink to get more information – and by the way, should I say beautiful website, because they have a really beautiful picture on their website – is on this slide 21.

And slide 22, the DOD Indian Incentive Program – this program provides 5% in incentive payment to the prime contractor who utilizes a Native subcontractor. This is for DOD, and they have on the DOD's Indian Incentive Program – the

hyperlink is located on slide 22. And they have examples or templates for the primes and the contracting officers to utilize, in addition to a PowerPoint briefing about the program. It's a pretty simple program, and yes, the money does run out each year, but you don't lose your place, if the money does or not. Because they are allowed, by Congress, a certain amount of money to apply to this Incentive Program.

And sooner or later the contractor does receive this incentive program. But I have to add that the contracting officer has to be careful not to close out the contract, because the incentive is applied to that contract. And if you are closing it out in your system, then there is no longer a vehicle with which to modify the contract to allow the payment to the contractor. So, just a note on that. And that was my only notes about those.

Maymangwa: Okay, thank you, Jan. That, I believe, concludes the substantive element – well, there is another slide, 23. Which includes a shot of the Office of Native American Affairs, which can be found at SBA.gov/naa and there's some resources there, in particular for the tribal entity owned businesses.

And with that, that concludes the substantive portion of our presentation. Now we have some time for questions.

Jan: Thank you, Maymangwa. Thank you, Laura. That was great. We did get some questions in. And one of them has to do with the updated slides and when they will be available on the APTAC website, and it usually takes up to a week, but I would say check within a few days and see if it's up there. And so, Deb, did you have some questions that came in from the audience?

Deborah: Yes, I have two. In the first one is – "Can you speak to the Super 8(a)s?"

Laura: Sure. That is, of course, not a formal program. But I do know that people call the entity participation in the 8(a) programs, the Super 8(a) programs. So, essentially, all that means is what we talked about earlier. The entities have special exceptions to affiliation. And they also have higher sole-source... (indiscernible)...

Maymangwa: Also, I think that term is sometimes also referred to as the season particular. And if we look again at sort of what I talked about sort of the history of how ANCs came about, and ANCs were specifically set up to be the business type corporations, which is very different from the way the tribes are set up and I believe even the NHO. So, when an ANC is able to succeed in a government contracting program, because of their business structure, it all sort of relates to what Congress intended through setting up ANCs through the Alaska Native Claims Settlement Act.

- Deborah: Next is – "Are Hawaii tribal businesses also HUBZone businesses?"
- Laura: So, not automatically. But I am aware of a number of areas in Hawaii that are designated HUBZones, so it is entirely possible for an NHO firm to also qualify for the HUBZone program.
- Deborah: This next question – it came in, in three parts. I'm going to try and decipher everything in one. And the first part is – "The entity I am referring to is a firm where the tribe owns 65%. Is a business able to buy rights to become an ANC although the business owners are not Native American or Alaskan?"
- Maymangwa: I guess I'm not quite sure what that speaks to. A 65% owned firm, meaning 65% owned by an ANC would meet the requirements of the 8(a) programs. Who owns the remainder of that, it can be individually owned. Is that the question? I don't understand what the "right" refers to.
- Deborah: Based on where 65% is owned by the tribe. We're going to have to address this in a separate forum because I want to make sure I have all the parts to that question. Because they all came in sporadically.
- Maymangwa: Okay, maybe they can send that in and we can answer it off-line.
- Deborah: This next question relates to SAM – "I am working with a business whose ownership is a tribally owned firm. While the business is small by the NAICs code assigned, we are having trouble with the SAM record reflecting them as small. How can we fix this?"
- I'm not sure the agency can fix this, but I will let you respond.
- Maymangwa: So there is an issue with SAM? I'm not sure what that answer would be.
- Laura: I believe that SAM has a Help Desk which would be more appropriate to help with that question.
- Deborah: The next question is – "Can the reason why Native entities are not eligible for WOSB or SDVO be restated?" This is not clear. I...
- Laura: ... want the reason restated? Sure. So of course, to be a Women-Owned Small Business, you need to be owned by a woman and a Service Disabled Veteran-Owned small business, you need to be owned by a service-disabled veteran. And a tribe or an Alaskan Native Corporation or an NHO cannot qualify as a woman or as a service-disabled veteran.
- Deborah: Okay. Thank you. I'm trying to see if there are any additional questions that I missed. There is one – "For clarification, an Alaskan Native Corporation that is a

primary can exclude any of its affiliated subsidiaries in their number of employees or annual receipts when registering in SAM? So, a primary ANC and its subsidiaries are considered separate entities?"

Maymangwa: The primary ANC firm, I guess is what they are meaning, and its subsidiaries are considered separate.

Laura: Right. So, the only reason that they would need to take into account sister subsidiaries or another firm's annual receipts would be if there was some special ground for affiliation. Either the dominance and the primary industry or some special affiliation grounds. They wouldn't need to take into account any other entities based solely on common ownership and management.

Deborah: Okay. Thank you. One final question – "Can a business pay to become an ANC owned firm?"

Maymangwa: No, I don't think so. The ANCs are set up, through ANCSA and I guess that's referring to times when businesses are seeking relationships with ANCs. I guess that might happen, but for purposes of our program, our 8(a) programs, we just need to make sure that if that is the case – if an ANC is buying an existing firm – we will need to make sure that they meet all of the SBA's 8(a) regulations to be eligible.

Deborah: I believe that is all of the questions right now. Jan, did I miss any that you see?

Jan: I think some questions may be a little more difficult to understand because they seem very in-depth. And they might be a good one to perhaps address off-line. They may want – and Laura has provided their contact information – but I highly recommend that you work with your procurement center representative, or the size specialist in the area that covers where you are located. And the size Specialists for SBA are also located on the SBA.gov website. If you have questions regarding affiliation. Maymangwa, would you say that, that is a good direction?

Maymangwa: Yes, thank you.

Jan: And thank you both, Maymangwa and Laura, for speaking with us today. We've actually got a couple of minutes over the time that we have allotted, but thank you, Carla, allowing us to wrap up and provide a logical conclusion to today. And with that, I think our program is done.

Moderator: Thank you for joining today's conference. This session has now concluded. And you may disconnect. **[End of Recording]**