

**ALASKA STATE LEGISLATURE  
HOUSE SPECIAL COMMITTEE ON TRIBAL AFFAIRS**

March 12, 2019

8:02 a.m.

**MEMBERS PRESENT**

Representative Tiffany Zulkosky, Chair  
Representative Bryce Edgmon, Vice Chair  
Representative John Lincoln  
Representative Dan Ortiz  
Representative Chuck Kopp  
Representative Dave Talerico  
Representative Sarah Vance

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Representative Sharon Jackson  
Representative Grier Hopkins

**COMMITTEE CALENDAR**

PRESENTATION(S): TRIBAL COMPACTS, CONTRACTS, & CONSULTATION

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

VALERIE DAVIDSON  
Juneau, Alaska

**POSITION STATEMENT:** Presented on tribal contracting and compacting.

CORRINE GARZA, C.O.O.

Central Council of the Tlingit and Haida Indian Tribes of Alaska  
Juneau, Alaska

**POSITION STATEMENT:** Presented on indirect rates.

RICHARD PETERSON, President

Central Council of the Tlingit & Haida Indian Tribes of Alaska  
Juneau, Alaska

**POSITION STATEMENT:** Presented on Tlingit & Haida tribal consultation.

**ACTION NARRATIVE**

[8:02:47 AM](#)

**CHAIR TIFFANY ZULKOSKY** called the House Special Committee on Tribal Affairs meeting to order at 8:02 a.m. Representatives Edgmon, Lincoln, Ortiz, Kopp, Talerico, Vance, and Zulkosky were present at the call to order. Also present were Representatives Jackson and Hopkins.

**PRESENTATION(S): TRIBAL COMPACTS, CONTRACTS, & CONSULTATION**

[8:03:37 AM](#)

CHAIR ZULKOSKY announced that the first order of business would be a presentation on tribal compacts, contracts, and consultations from Valerie Nurr'araaluk Davidson. She relayed Ms. Davidson's experience in the administration of tribal health programs, which spans 15 years, 12 of which were as co-lead negotiator for the Alaska Tribal Health Compact with the Indian Health Service (IHS). She was also chair of the National Tribal Advisory group for the Centers for Medicare & Medicaid Services (CMS).

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VALERIE DAVIDSON, Representing Self, shared that she would be providing perspective on contracting, compacting, and opportunities for tribal, state, and federal partnerships. She stated that compacting and contracting began under federal law and has typically been authorized under the Indian Self-Determination and Education Assistance Act (ISDEAA), which authorizes tribes to compact or contract for programs, functions, services, or activities that the federal government would otherwise provide to American Indians and Alaska Natives. She stated, "Programs, functions, services, or activities is a key phrase" in the discussion of compacting. She stated that the relationship between the federal government and tribes can spur concern of race-based mistreatment. She clarified that it is a recognition of the political relationship between the federal government and tribes, which is not based on race.

MS. DAVIDSON distinguished the differences between contracts and compacts; tribes will typically begin with a contract and then graduate to a compact. She shared that both have authority under ISDEAA; contracting occurs through Title I, compacting through Title V. She shared that compacts require, in addition to a resolution, the successful completion of a planning phase and three years of fiscal stability and management, which is typically satisfied by three years of "clean" audits. She shared that compacting allows for greater flexibility and local control than contracting. As an example, Ms. Davidson pointed to the Yukon-Kuskokwim Health Corporation's (YKHC's) acquisition of programs and services in the Bethel area; administration began with a contract before developing into a compact to include all of the health services in the region, including administration of the hospital. This transition from contract to compact depends on an organization's readiness, ability, and interest in taking on additional responsibility.

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MS. DAVIDSON distinguished between the two types of compacts between the State of Alaska and the federal government. The Alaska Tribal Health Compact has 25 or 26 co-signers and compacts between tribes, tribal organizations, and the secretary of the U.S. Department of Health & Human Services (HHS). The other type of compact occurs with the secretary of the U.S. Department of the Interior (DOI). The former focuses on individual and community health; the latter concerns itself with child/family services, economic development, education, natural resources, et cetera.

MS. DAVIDSON shared that tribes, communities, and anyone that lives in rural Alaska benefit from the local control accommodated by compacts. Some of the larger health organizations in the state are not rural-based, but urban-based organizations. She stated that when the legislature was working through Senate Bill 74 [29th legislature] - the Medicaid reform bill - a lot of the innovations that were under consideration already exist in the tribal health system.

[8:11:16 AM](#)

MS. DAVIDSON stated that the Alaska Tribal Health System (ATHS) allows for better coordinated care to beneficiaries through its public health function. She stated that other states have robust county health systems, but Alaska is not organized by counties. For a sense of scale, the Department of Health and

Social Services (DHSS) has approximately 3,500 employees collectively while the AHS has approximately 7,000 employees. She stated that in rural communities the tribal healthcare provider operating under a compact is often the only healthcare provider available.

[8:12:15 AM](#)

REPRESENTATIVE EDGMON asked for Ms. Davidson's perspective on the governor's proposed budget cuts to Medicaid.

MS. DAVIDSON stated that the Medicaid expansion gave the opportunity to broaden coverage to those who have not had coverage. The expansion provided resources for providing behavioral health services, addressing the opioid epidemic, and reducing recidivism. She shared that, while the compact does provide some health services, it does not provide all of the health services and resources. Based on the federal government's analysis of available resources, AHS is funded at only 50 percent of the level needed to provide the most basic healthcare services. Due to underfunding, Congress passed a number of laws that require tribal health organizations to seek third-party reimbursements such as private insurance, Medicaid, Medicare, Denali Kid Care, and sometimes self-pay. She shared that changes in the makeup of coverage providers or available resources create a challenge for AHS to provide healthcare considering the extent to which tribes are underfunded.

REPRESENTATIVE EDGMON thanked Ms. Davidson for her response and opined that, in respect to her background at YKHC, with the Alaska Native Tribal Health Consortium (ANTHC), and as the former Commissioner of DHSS, she was more than qualified to offer her perspective on the proposed cuts.

MS. DAVIDSON, in response to Representative Edgmon, stated that anytime there are few resources available for coverage, any healthcare provider's ability to provide care would be impacted.

CHAIR ZULKOSKY clarified to committee members that Ms. Davidson was invited to speak due to her previous experience with tribal compacting and contracting. She asked committee members to respect the limited scope of Ms. Davidson's invitation.

[8:16:02 AM](#)

MS. DAVIDSON continued. She stated that many parts of the state do not have a public health program available 24/7 and that,

therefore, tribal health programs often serve in that role. Ms. Davidson shared that veterans in Alaska benefit from the tribal health system. She gave an example of an uncle, who was a veteran, who travelled from his village, to Bethel, and then to Anchorage to visit the nearest U.S. Department of Veterans Affairs (VA) facility despite the presence of a clinic in his village and a hospital in Bethel that may have been able to provide care. She shared that now, through agreements with the VA and the tribal health system, her uncle can receive care in a tribal health facility without having his treatment disrupted by travel. She stated that, after forty years of healthcare delivery in Alaska through the compact, tribal health systems have seen that health outcomes improve when care is provided close to home. It is the transitions between systems and travel between communities that introduce opportunity for outcomes to diminish.

MS. DAVIDSON stated that there are care coordination agreements between tribes, tribal organizations, and non-tribal organizations through a tribal claiming policy that was negotiated with CMS. She stated that this makes sense from a programmatic perspective while also saving money for the state. As an example, she shared that care coordination agreements stipulate that if an individual is an IHS health beneficiary, a Medicaid beneficiary, and is seen through an IHS facility, including a tribally operated facility, the state is entitled to a 100 percent match by the federal government rather than a 50 percent match. The federal government previously had a strict interpretation of an IHS facility, but it has enhanced the tribal claiming policy. Now, as long as a care coordination agreement is in place, additional services considered for a federal match include medically necessary travel and care that is referred outside the tribal health system. She postulated that if someone in Bethel were to experience a heart attack and require travel to Anchorage to see a cardiologist, and he/she went to the Alaska Native Medical Center (ANMC), the services would receive a 100 percent federal match. The provider receives the same rate, but there are dramatic cost savings for the state. Previously, if a case were too complicated for ANMC and a patient had to see an alternative service provider, the state would have to pay a 50 percent match.

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MS. DAVIDSON shared that a 100 percent federal match would also apply if a care coordination agreement exists between the referring IHS facility and a non-IHS facility, the care began at

an IHS facility and was referred to a non-IHS facility, and the patient has a care coordination agreement to return. She stated that these leveraged partnerships have resulted in large general fund savings; in fiscal year 2017 (FY 17) the state saved \$17 million in Medicaid expenditures, in FY 18 \$44.7 million, and in FY 19 the state has saved \$46 million in the first two quarters. To date, since FY 17, the state has saved \$125.7 million in Medicaid general funds. She said, "Not only does it make good sense from a patient perspective, from a quality [of] care perspective, it also makes really, really good fiscal sense and it makes good budget sense for the state to continue to work with tribes and tribal organizations to make sure that these kinds of arrangements continue."

[8:22:37 AM](#)

CHAIR ZULKOSKY asked if care coordination agreements are incorporated as part of the tribal health compact.

MS. DAVIDSON answered yes; the care coordination agreements are required by CMS and, in order for the provider to be eligible for a 100 percent federal match, care must be provided in an IHS facility. The determination of an IHS facility, and the associated funding agreement, is determined in schedule (e) of the Alaska Tribal Health Compact.

[8:23:28 AM](#)

REPRESENTATIVE EDGMON asked, from the perspective of ANTHC as the umbrella organization down to the providers, where the compact exists, if it would be possible to have a contract and a compact and if ANTHC holds the main compact with service providers.

MS. DAVIDSON answered that the 25 to 26 co-signers are independent legal entities that typically provide service in a specific service area. She provided the example of YKHC, that provides care to 58 federally recognized tribes in an area approximately the size of Oregon. Its sister tribal organization - Bristol Bay Area Health Corporation - is independent and legally distinct from YKHC and ANTHC. She shared that ANTHC provides statewide services, a lot of which were previously provided by the IHS area office. She summarized by saying that they are connected but legally distinct organizations.

[8:25:21 AM](#)

MS. DAVIDSON stated, in reference to slide seven, that Alaska has most experience with federal compacts with the secretary of HHS and the secretary of the DOI. She stated that there are opportunities for state compacts; the state currently has an existing child welfare compact, a government-to-government agreement with 18 co-signers representing over 160 tribes. It recognizes tribes' inherent sovereignty and affirms that tribes may be in a better position to provide child welfare services than the state. She shared that the model used for tribal health and other Bureau of Indian Affairs (BIA) programs advocates the provision of services as close to home as possible, which leads to better outcomes; applying that same model to child welfare was the logical next step. She said that change to something new can be challenging. Beyond the practicalities of changing programs, there are people who have cared about programs from the beginning and have seen the program grow over time; therefore, letting the program go can be difficult. She said, "Change is hard. It's an emotional exercise as well as an intellectual, legal, and programmatic one." She stated that the message was always "we're on a path to yes," recognizing that there are obstacles and federal requirements to be satisfied.

[8:28:31 AM](#)

MS. DAVIDSON stated that upon the state's compact with tribal organizations and the lack of anything in state law that precludes compacting, other potential areas for compacting include education, public safety, and transportation. The consideration of compacting requires asking the hard question of "are we the right people to provide that service?" and "is someone else in a better position?" She emphasized that compacting is not simply a transfer of responsibility and authority, rather "we have to set people up for success" with analogous resources. Ms. Davidson stressed the need to ensure compacts are adequately funded.

[8:30:20 AM](#)

CHAIR ZULKOSKY asked Ms. Davidson to provide an example that would illuminate the compactable points included in an agreement.

MS. DAVIDSON answered that, under the compact, the department agreed to provide information on reports of harm to compact co-signers to tribes, which was previously not shared until it rose

to the level of investigation. With the child welfare compact, every report of harm is shared with the tribe at its first occurrence, which allows the tribe to wrap services around that child and family. Ms. Davidson shared that this may stem the number of reports and preclude a formal intervention down the line. She said that tribes have performed diligent relative searches for Indian Child Welfare Act cases and ensure that the state complies with the requirement of placing that child with a relative. Some tribes are also interested in licensing foster homes while others are interested in taking on the services currently provided by the Office of Children's Services (OCS) [within DHSS]. Ms. Davidson shared that, just like the contract and compact at the federal level, tribes determine their interests, capabilities, and the scope of their provision of services.

[8:33:09 AM](#)

MS. DAVIDSON reinforced the importance that tribes receive adequate resources. She stated that the Tribal Child Welfare Compact provided "an indirect rate for all of things the state would normally be allowed to have." For example, at DHSS it's not a single department that provides a service; they can also access the resources of the Department of Administration (DOA), the Department of Law (DOL), the services of the attorney general, et cetera. She shared that those indirect rates compensate and provide additional resources for administrative functions such as rent, facilities, insurance coverage for employees, et cetera.

MS. DAVIDSON discussed consultation practices. She shared that there are very strong consultation policies at the federal level; while every department has a consultation policy, some are more stringent than others. For example, CMS has a tribal consultation policy mandating that states demonstrate adequate consultation with tribes prior to submission of a state plan amendment. If the state has not, CMS can decline the state plan amendment and the state would not be authorized to modify its Medicaid policy. Typically, rather than CMS formally declining a state plan, it will invite the state to withdraw its amendment and make modifications. Ms. Davidson stressed the weight that CMS puts on meaningful consultation with tribes.

MS. DAVIDSON reported that consultation also happens on the state level; some states have strong policies with routine and formal consultation. She stated that DHSS has a comprehensive consultation policy that was signed by Commissioner Butler. The

Alaska Department of Transportation & Public Facilities (DOT&PF) has also had a tribal consultation policy for some time. She said that Administrative Order (AO) 300 required every department to develop consultation policies.

MS. DAVIDSON stated that consultation policies create a formalized structure for meaningful dialogue between tribes, tribal organizations, and the state. She added that consultation policies offer an opportunity to understand and formalize an entity's role and abilities and accommodate forward movement and discussion of compacting possibilities.

[8:38:46 AM](#)

CHAIR ZULKOSKY asked if it was correct that AO 300 requires every state department to develop consultation policies. She also asked, in follow up, when AO 300 was signed and for its current status.

MS. DAVIDSON maintained that yes, AO 300 requires every department to develop consultation policies. She stated that AO 300 was signed over a year ago, and she believes that the order is still standing.

[8:39:22 AM](#)

MS. DAVIDSON provided another perspective to frame the opportunities in compacting. She shared that Yupik people believe that "your view of the world is entirely shaped by your experiences, and so it's considered really, really impolite to tell somebody that they're wrong," because they have not had the experience to form that perspective. Ms. Davidson offered an example of an interaction with her nephew; he once pointed and asked for the "orange" object on the table, but there was only one thing on the table - and it was green. She picked up the object and responded, "This kind of orange is called green." Ms. Davidson encouraged the committee members to consider that "sometimes we may be seeing something that we believe is orange because that's all that we've ever known, and we need to be open to the possibility that that thing might also be green." She emboldened the committee to be open to new opportunities that lie with compacting and contracting. Ms. Davidson ended her presentation with, "quyana."

[8:41:31 AM](#)

CHAIR ZULKOSKY thanked Ms. Davidson for her presentation. She introduced the next presenter, Corrinne Garza, who was the Chief Operating Officer of Central Council of the Tlingit and Haida Indian Tribes of Alaska for nineteen years. Chair Zulkosky shared that Ms. Garza is Haida Eagle/Frog/Sculpin and her Haida name is S'ak'saani; she is also Tlingit Raven/Coho, and her Tlingit name is Daanna' Shawa'at - Money Woman. Chair Zulkosky relayed Ms. Garza's educational background.

[8:42:15 AM](#)

CORRINE GARZA, COO, Central Council of the Tlingit and Haida Indian Tribes of Alaska ("Tlingit & Haida"), relayed that federal regulations concerning audits and indirect costs are found in 2CFR Part 225 of the Code of Federal Regulations, noted on slide two of her PowerPoint presentation. In addition, tribes must follow generally accepted accounting principles (GAAP). She shared that costs are classified in various manners, which are basically direct costs including compensation and materials. Indirect costs are incurred for a common purpose, such as finance or computer information services, and are usually applicable to an entire organization. She stated that indirect costs are not assignable without associated work, such as copying, long distance cell phone calls, et cetera. There are also unallowable costs such as contributions, donations, fines, penalties, fundraising, general government expenses, contingencies, and lobbying.

[8:44:49 AM](#)

CHAIR ZULKOSKY asked for other types of organizations in Alaska that have established indirect rates or costs.

MS. GARZA responded that tribes have indirect rates; universities, non-profits, and any organization that receives federal funding may negotiate indirect rates with the federal government. She further relayed that the source of the majority of federal funding will determine with which federal [department] an organization would negotiate an indirect rate.

MS. GARZA stated, in reference to slide six, that costs are divided between the group's direct, indirect, administrative, and unallowable costs and that all costs for an indirect cost proposal must be reflected in the audit. She stated that there is often a misunderstanding that tribes allocate all of their costs into indirect cost pools. The Interior Business Center (IBC) does not want the federal government to pay for things

like donations and other unallowable costs; it requests a breakdown of costs at its discretion while negotiating agreements.

[8:47:01 AM](#)

MS. GARZA referred to slide eight and discussed the limitations to indirect costs, with the federal and state government. These caps limit how much a tribe may recover in indirect costs. She shared that Head Start has an indirect cap limitation of 15 percent, as does Temporary Assistance for Needy Families (TANF) for client benefits; the Village Public Safety Officer (VPSO) program also has a cap. The caps imposed upon programs limit the contractors that will participate, because those caps create shortfalls, which equate to "real money" losses. Most small tribes do not have another source of unrestricted revenue and therefore cannot make up those shortfalls.

[8:49:11 AM](#)

REPRESENTATIVE EDGMON stated that he was familiar with auditing for non-profits. He relayed from Ms. Davidson's presentation that there must be three years of fiscal stability and clean audits prior to meeting eligibility requirements to compact. Representative Edgmon asked if his understanding was correct and if audits focus on indirect rates.

MS. GARZA answered affirmatively and shared that the state and federal government require copies of audits. She shared that Tlingit & Haida posts audits on its website so everyone can see the allocation of money.

REPRESENTATIVE EDGMON emphasized the tribe's focus on fiscal transparency. He stated that, while cities often have difficulty completing their audits, tribes are held to a pretty high standard.

MS. GARZA concurred and stated that if the tribe does not submit an audit, then the tribe could potentially have funds withheld.

[8:51:23 AM](#)

MS. GARZA stated, in reference to slide nine, that there is a shared cap at the VPSO program. She stated that because the tribes and non-profit regional organizations have different indirect cap rates, the entities agreed to a shared cap rate

accommodated by a pool of money available for indirect costs, which was capped at 30 percent.

MS. GARZA asserted that tribal contractors take efforts to minimize their indirect rates as it is easier to obtain grants when a tribe or organization has a lower indirect rate. She remarked that tribes were offered the opportunity to participate in the federal insurance program rather than the AFN program. Upon switching the tribe lowered its insurance rates, which created savings and lowered its indirect rate. She attested that during her time at Tlingit & Haida efforts were taken to lower the indirect rate, such as the hiring of an in-house legal counsel.

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MS. GARZA explained that in order to minimize shortfall, while still providing services, tribes have developed administrative rates or administrative pools, a method of recovery in administrative costs approved in the Ramah settlement. The tribe has developed administrative rates for Head Start and VPSO; doing so required the program to track costs in pools and identify the services associated with those costs. As an example, Ms. Garza relayed that, for the administration of the VPSO program, communities were required to provide space for program staff. In order to bring the rate down, Tlingit & Haida segregated the facility costs and charged the administrative pool for one space rather than individual spaces for all of the officers. She stated that not all tribes are able to do make these changes to accommodate caps, as there must be economies of scale. She articulated details of the process: "The programs with administrative pools are subtracted from the direct base. The amount of indirect that is recovered is subtracted from the indirect pool. ... You get the administrative rates for each of those programs and then an overall indirect rate for the remaining programs."

[8:57:48 AM](#)

MS. GARZA, referring to slide 11, stated that DOI approves of indirect cost proposals for tribes. She stated that some tribes negotiate their rates with the IBC's counterpart in DHSS, but IBC requires tribes follow the IBC's template to derive "carry-forwards." She said it is a complicated formula of determining "over" and "under" recoveries; over recoveries occur when the tribe collects more from indirect than initially allocated, which rarely happens.

[8:58:37 AM](#)

CHAIR ZULKOSKY stated that she was unfamiliar with IBC and asked Ms. Garza to describe where it's located.

MS. GARZA responded that IBC is located in DOI. She continued with her presentation, on slide 12, and explained that the over recovery is subtracted from the pool two years in the future. She shared that under recovery is similarly calculated and results in an increase in the next period's rate. In reference to slide 13, Ms. Garza stated that shortfalls require a different calculation because the tribe does not recover the shortfall. She relayed an example of a potential shortfall. She explained that carry-forwards occur when the overall recovery deviates from the budgeted amount, and there will always be variances; shortfalls will not be recovered while carry-forwards can. She commented that the deficit, for tribes, "consists above the shortfall and the carry-forward if there's an under recovery."

[9:00:52 AM](#)

MS. GARZA, moving to slide 14, stated that tribes must make certifications in their indirect cost proposals; usually "the state will honor indirect cost rates that are negotiated" but must certify allowable costs in accordance with federal requirements. She said that any excluded costs pay for their own administrative costs; the pool of unallowable expenses also has an indirect rate. She stated that all funds must go towards their respective programs; "a Head Start dollar must be spent on Head Start activity," and costs cannot be shifted between programs. In reference to slide 15, she explained that the tribe submits the indirect cost proposal to IBC for review; IBC must approve or disapprove of all costs in the pool and then issue an indirect cost agreement. Upon approval, all federal agencies must honor that agreement.

[9:03:22 AM](#)

REPRESENTATIVE KOPP asked if indirect rate costs apply to both federal and state dollars allocated toward tribes. He further asked, of the money that goes from the state to the tribes, how much is federal passthrough administered through the state as grants.

MS. GARZA answered affirmatively. She illuminated that the dollars for TANF are passed through; Head Start dollars come from the general fund and requires tribes "to come up with a match." She further relayed, "Tribes don't have that match, so the state has stepped forward and provided that match." She shared that receiving the match makes a big difference as to whether or not tribes can provide services.

REPRESENTATIVE KOPP inquired about the VPSO program's funding sources.

MS. GARZA stated that the VPSO program is not a passthrough; funding comes from the state's general fund.

[9:05:07 AM](#)

REPRESENTATIVE EDGMON stated that the state's matching portion for Head Start grants is \$6.8 million and inquired as to how many programs receive that funding.

MS. GARZA responded that she did not know. She stated that Tlingit & Haida served 300 students with 50 employees, but she is unsure of how many communities have the program. She stated that Rural Alaska Community Action Program, Inc. (Rural CAP) serves other communities.

REPRESENTATIVE EDGMON stated that it was suggested in a recent House Finance Committee hearing that the \$6.8 million in funding, which is cut out of the proposed budget, could be provided by tribes in lieu of the state funding. He said, "I beg to differ with that. ... It just seems to me that these tribes don't have that kind of unrestricted money lying around."

MS. GARZA stated that the only tribe in Alaska with unrestricted revenue is Tlingit & Haida, due to its "settlement with the federal government over the taking of the Tongass." She shared that all other tribes are landless and, therefore, "don't have any resources with which should generate revenue, nor do they have a tax base." She stated that without unrestricted revenue, they cannot generate a match for those services; "it would be very challenging to continue to provide Head Start without the match." She suggested that it could be easier if Congress were to change the match requirement.

[9:07:34 AM](#)

REPRESENTATIVE VANCE asked Ms. Garza to elaborate on the tribes' lack of a tax base and stream of revenue and how the corporations contribute to funding for services. She opined that this would clarify how services are provided to Alaska Native people and the expectation of how services are paid for in relation to the state and federal dollars. She opined that there may have been an assumption that tribes had a revenue stream.

CHAIR ZULKOSKY noted there would be a representative from regional and village corporations and organizations presenting on the organizational revenue stream and investment in Alaska's economy at the following meeting. She noted that there was not an expectation for Ms. Garza to clarify these details because her work has been on behalf of tribes and tribal governments. Representative Zulkosky welcomed any overview that Ms. Garza may be able to provide.

[9:09:23 AM](#)

MS. GARZA noted that she also served as the CEO for Klawak Heenya Corporation, a village corporation. She said there are a lot of differences; "tribe membership is not the same as a corporation's membership." She stated that individuals not alive before the passage of the Alaska Native Claims Settlement Act (ANCSA) are not shareholders unless they inherit shares. However, tribes define their own terms of membership/citizensry. She stated that, in the Central Council's case, membership is determined by relation to an original member; an individual must provide the family tree and birth certificates to establish their relationship. She opined that Congress created this "mess" when corporations garnered resources, land, and money from ANCSA and not the responsibility to provide services to members.

[9:11:34 AM](#)

CHAIR ZULKOSKY thanked Ms. Garza for her service to Alaska's tribes. She said, "It's very evident from your presentation that there are strict boundaries and parameters with which tribes are expected to expend resources, and we appreciate your expertise and knowledge in this area."

[9:12:07 AM](#)

RICHARD PETERSON, President, Central Council of Tlingit & Haida Indian Tribes of Alaska ("Tlingit & Haida"), Juneau, Alaska,

noted his reverence for the two presenters to speak before him and began a PowerPoint presentation. He imparted that tribes have been working with the federal government on tribal consultation for a while. He said that there are "multiple models of successful consultation that has produced quality programs that are efficiently responsive to the needs of the communities," such as tribal health. He stated, in reference to slide three, that he would be presenting on the Marine Mammal Protection Act (MMPA); the 1994 Act included the ability for the U.S. Department of Commerce, Community, & Economic Development (DCCED) and DOI to enter into co-management agreements with tribal governments and acknowledged that working with tribes would more likely achieve the goals of the MMPA than management by federal agencies. He shared that it is more efficient to hear from communities on local matters; he emphasized the importance of governance by localities.

[9:14:11 AM](#)

MR. PETERSON stated, in reference to slide four, that there are multiple consultation policies for a variety of departments, divisions, agencies, and programs within the federal government. He stated that tribal consultation is based on a government-to-government relationship and referenced Lieutenant Governor Davidson's remark that this relation is not based on race, rather tribes are sovereign organizations. He stated, "Agencies should be represented by decision-makers, not low-level staff checking a box to report on consultation to their superiors." He said that, as the president of Tlingit & Haida, he sits with those that run programs and noted that more high-level decisions are able to be made because of that consultation. Mr. Peterson explained that there were multiple co-management bodies resulting from MMPA, such as the Indigenous People's Council for Marine Mammals (IPCoMM). He recommended reading IPCoMM's handbook, titled Model Alaska Native Consultation Procedures. He reinforced that tribal consultation provides local control and efficient policies that best suit the community's needs.

[9:16:37 AM](#)

CHAIR ZULKOSKY asked if, in his experience in villages and communities in southeast, Mr. Peterson thinks the tribal governments, municipal governments, or both are best suited to provide services to residents.

MR. PETERSON responded that after acting as mayor of his village for 13 years, serving on the council for 18 years, and serving

as the tribal president for 18 years, he has a unique perspective. He said that, because of the federal funding that the tribe brought into the community, the tribes were the "doers." He stated that through partnerships between the tribe and school district, the tribe was able to build a new school.

MR. PETERESON returned to his presentation and discussed the benefits of consultation, as shown on slide seven. He stated the benefits are as follows: local infrastructure, local solutions to local problems, formal representation, myth busting, savings to taxpayer money by identifying efficiencies, and communication. He stated, in reference to slide eight, that Tlingit & Haida has been involved with consultation on the Governor's Tribal Advisory Council (GTAC) and the DOI Secretary's Tribal Advisory Committee. He stated that Tlingit & Haida is also involved with consultation such as the BIA Reorganization Act, where the tribe is able to consult on a federal level.

[9:20:24 AM](#)

MR. PETERSON referenced a photo on slide nine of the signing of an agreement between the tribe and the State of Alaska. He said, "This is just the beginning, we feel it will get better the more consultation we do. I think, again, through Madame Chair, Vice-Chair Edgmon, your wisdom in forming this committee is instrumental in this." He expressed his appreciation to the committee's interest and implored the State of Alaska Senate to develop a similar committee. He ended his presentation with, "Gunalcheesh, Haw'aa."

[9:21:42 AM](#)

REPRESENTATIVE EDGMON thanked Mr. Peterson for his presentation. He stated that the material discussed today has little reference in current state law.

MR. PETERSON concurred.

[9:22:09 AM](#)

CHAIR ZULKOSKY thanked Mr. Peterson for his presentation and for his ongoing work for his tribal members and for all tribes in Alaska.

CHAIR ZULKOSKY invited Ms. Davidson to offer any closing comments on tribal consulting, contracting, and compacting.

[9:22:37 AM](#)

MS. DAVIDSON imparted her love for the House Special Committee on Tribal Affairs. She discussed common myths that she has heard in her career in tribal health and in compacting. She shared that she has heard it suggested that tribes are not sophisticated enough to take on complicated programs. However, Alaska has "world-renowned health programs," such as the tribal tele-health program. She offered the Alaska Dental Health Aide Therapy Educational Program as another example, a program that began in the tribal health system. She stated that the Nuka System of Care, provided through Southcentral Foundation, is considered one of the best healthcare programs.

MS. DAVIDSON emphasized the number of rules that regulate tribes. She noted the high level of attention paid to the development of indirect cost proposals and attested that "they do look at every single penny that is spent." She commented that the indirect caps may have made sense at the time of policy development but that increasing costs coupled with inflation shifts costs to the service provider.

[9:26:36 AM](#)

CHAIR ZULKOSKY asked if indirect rates are federally established. She sought to clarify if the loss to tribes, when costs are not allowable, are real financial losses without revenues to supplement the difference.

MS. DAVIDSON concurred with Chair Zulkosky's assessment. She addressed earlier questions regarding regional corporations and relations to tribes. She clarified that tribal organizations with the word "corporation" in the title are tribal health organizations. Ms. Davidson stated that, while the tribal health organizations are non-profits, they must cover their costs even when funded at only 50 percent of the level of needed funding. She explained, "Regional corporations were designed by congress as a for-profit business mechanism"; their function is not to provide social services. She stated that ANCSA regional corporations and village corporations will make charitable contributions. She ended her statement as follows: "I applaud the creation of this committee. I applaud the Chair for creating a safe space to be able to have these kinds of conversations and to really look at the incredible level of sophistication that occurs ... in the services that are provided by tribes ... to everyone who lives in the community." She

said, "State compacting opportunities really are at their infancy," and she referenced the number of other compacts that have formed for health and social services, natural resources, and transportation. She emphasized, "[Compacts] must be adequately funded in order for them to be successful. We need to make sure that ... we don't just merely transfer the responsibility without any of the resources." She said "quyana," thanked the committee and Chair Zulkosky, and concluded with "tua-i," a Yupik term for "that's it."

[9:31:28 AM](#)

CHAIR ZULKOSKY thanked Ms. Davidson for her time and insights.

[9:31:45 AM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Tribal Affairs meeting was adjourned at 9:32 a.m.