

**In the Matter of:**

**Interagency Task Force on Veterans Small Business  
Development**

*September 15, 2016  
Public Meeting*

**Condensed Transcript with Word Index**



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4 U.S. SMALL BUSINESS ADMINISTRATION  
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6 INTERAGENCY TASK FORCE ON  
7 VETERANS SMALL BUSINESS DEVELOPMENT  
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9 PUBLIC MEETING  
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12 THURSDAY, SEPTEMBER 15, 2016  
13 9:00 A.M.  
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25 Recorded by: Jen Metcalf-Razzino, CER

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1 P R O C E E D I N G S  
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3 MS. CARSON: All right. Welcome to the  
4 September 15th, 2016 Interagency Task Force for Veterans  
5 Business Development. We will take a quick roll call  
6 around the room, and do understand that others will be  
7 joining us as traffic allows.  
8 Victor, we'll start with you.  
9 MR. KLINGELHOFER: Victor Klingelhofer  
10 representing Vietnam Veterans of America.  
11 MS. BAINTON: Amanda Bainton representing the  
12 Military Officers Association of America.  
13 MS. CARSON: Barb Carson, SBA's Office of  
14 Veterans Business Development.  
15 MR. FULLER: Myron Fuller, Arlington, Texas  
16 VBOC.  
17 MR. HEILMAN: Craig Heilman, Office of Veterans  
18 Business Development.  
19 MR. WESLEY: Kenyata Wesley, Department of  
20 Defense.  
21 MR. METHENY: Bill Metheny with Department of  
22 Labor, Veterans Employment and Training Service.  
23 MS. CARSON: In the room, we are still awaiting  
24 the attendance of Department of Treasury, the Office of  
25 Management and Budget and Department of Veteran Affairs.

2

1 C O N T E N T S  
2  
3  
4 PAGE:  
5 Opening Remarks/Roll Call/ IATF Updates 4  
6 - Barbara Carson, SBA 6  
7 - Update on FY14/15 IATF Report 6  
8 - IATF Vacancies 6  
9 - IATF Proposed Updates 7  
10 to Recommendations  
11 Agency/Veteran Service Organizations Reports:  
12 - Mentor Protege; Ken Dodds, 45  
13 SBA Office of Government Contracting  
14 - Kingdomware Decision Impact Update; 57  
15 Sam Le, SBA General Counsel  
16 - DOL, Bill Metheny 78, 110, 122  
17 - DOD, Kenyata Wesley 12, 19, 31, 38, 68  
18 - OMB, Mathew Blum 15, 25, 33, 70, 87,  
19 104, 114, 122  
20 - VSOS  
21 - Vietnam Veterans of America, 16, 35, 53, 84,  
22 Victor Klingelhofer 94, 100  
23 - Military Officers Association  
24 of America, Amanda Bainton 110, 120  
25 Closing Comments, Barbara Carson 125

4

1 And on the phone, we would appreciate it if you  
2 could please say your name clearly, and if you represent  
3 an organization, you are welcome to share that with us.  
4 Thanks, go ahead.  
5 MS. BULLARD-MARSHALL: Maggie Bullard Marshall,  
6 Aldevra.  
7 MS. SAGESTER: Cherylynn Sagester, Veteran  
8 Business Outreach Center, Old Dominion University.  
9 MR. FRONABARGER: Derek Fronabarger, Student  
10 Veterans of America.  
11 MS. KAUFMAN: Julie Kaufman, the COMMIT  
12 Foundation.  
13 MS. McMAHON: Lee McMahon, Department of Defense  
14 Spouse Education and Career Opportunities.  
15 MR. BENNETT: Jerry Bennett. My apologies.  
16 MR. FLETCHER: You're good, go ahead.  
17 MR. BENNETT: Jerry Bennett, Privateer IT.  
18 MR. FLETCHER: Jerome Fletcher, associate  
19 administrator for the Office of Small Business at GSA.  
20 MS. HICKEY: Allison Hickey, All-in Solutions.  
21 MR. GLOWACKI: Edward Glowacki, Veteran Corps of  
22 America.  
23 MR. NIMMO: Brian Nimmo with Pearl Interactive  
24 Networks. Barb, good to hear your voice again this  
25 morning.

<p style="text-align: right;">5</p> <p>1 MS. CARSON: It's a pleasure to hear from many 2 of you who I met at National Veterans Small Business 3 Coalition last evening. We did have a little bit of 4 trouble hearing your names. If you would be so kind so 5 that we can ensure that we do have your name, since this 6 meeting is on public record, please do email your 7 information if you're on the line to 8 veteransbusiness@SBA.gov. 9 We will have SBA leadership, in addition to 10 myself, joining us shortly, because they wanted to thank 11 us for all the work that you've done to get us to this 12 point. And we will kick off with a short update on 13 that. 14 You have completed the combined fiscal year '14 15 and '15 Interagency Task Force Report. Thank you so 16 much. Not only did you report on what you have done, 17 you've continued to work hard to achieve the goals that 18 we've set for ourselves. That is at OMB for final 19 clearance, and we expect that it will be available to 20 the public within a month. 21 We do have two vacancies on the Interagency Task 22 Force on Veterans Small Business Development and they 23 are both for veterans service organizations. We will be 24 putting out the word to get some applicants who are very 25 interested and able to affect change in this arena. So,</p>	<p style="text-align: right;">7</p> <p>1 Boots to Business, that there's no way he would have 2 been able to start a business. 3 So, I think that sort of set the tone for her, 4 for her entire tenure when it comes to veterans 5 entrepreneurship issues, and so anyway, that's a long 6 way of saying that she's keenly interested in this. 7 It's also probably the closest that I will ever get to 8 being at a cross-fit gym, as you can probably tell by 9 looking at me. 10 Anyway, I just want to make a few points to kick 11 things off just very briefly and then let us get to 12 work. First, I just want to thank everybody so much. I 13 know over the past year, particularly with our now 14 former deputy administrator, Doug Kramer, there was a 15 lot of progress made. I don't know, does everybody know 16 that Doug Kramer is no longer the deputy administrator 17 here? He has moved on to greener pastures in San 18 Francisco with seemingly everybody else, or half the 19 rest of the known world. 20 But, you know, due to your participation effort, 21 this task force has really been revitalized. The 22 initial report, it's a little sad that making progress 23 on an FY '13 report is real progress, but it was stalled 24 and is real progress, and then all of your work on the 25 initial '18 recommendations has been really fantastic.</p>
<p style="text-align: right;">6</p> <p>1 I thank both the American Legion and the Naval 2 Post-Graduate School for their contributions during 3 their tenure. 4 I am now pleased to introduce the Small Business 5 Administration's chief of staff, Nicolas Maduros, who is 6 going to join us this morning, as our administrator has 7 an important engagement this morning. Please. 8 MR. MADUROS: Yes. Thank you, Barb. 9 Thanks, everybody, for being here. I really 10 apologize that the administrator cannot be here. She 11 planned to be, but then Congress called her up to 12 testify this morning. One of the little known facts of 13 the SBA is that we provide disaster loans to homeowners 14 and businesses, so with the recent flooding in 15 Louisiana, we have been busy, and there is a hearing on 16 Louisiana flood issues this morning. 17 This is of paramount importance to the 18 administrator, the work that you all have been doing and 19 that Barb and her team do here every day. She often 20 tells the story that the first small business she 21 visited as the SBA administrator was a cross-fit gym 22 here in Washington, that was started by one of the 23 inaugural class members of the Boots to Business 24 program, and the owner of the gym told her that, you 25 know, without -- but for the help of the Government and</p>	<p style="text-align: right;">8</p> <p>1 So, first, thank you. 2 I think the goal of today is -- and what we 3 would like to see in the coming months to take from the 4 last June meeting, to build on the progress in the last 5 June meeting. I know then there were a number of 6 recommendations that sort of people determined were out 7 of date or no longer relevant. There were new 8 suggestions made. And then thank you to those of you 9 over the past few months who have submitted additional 10 recommendations. So, I'm hoping that today we can 11 figure out exactly, you know, what the recommendations 12 are for FY '17 so we've got a clean slate and can go 13 forward with a common sense of purpose and know exactly 14 where we're going. 15 And then, lastly, I would just remind everybody 16 that though we did the FY '13 report and the FY '14-'15 17 report is I think just about done, we still have an FY 18 '16 report coming up and we are hoping that that doesn't 19 become like a three-year late report. So, folks will be 20 reaching out to all of you and you don't even need to 21 wait to be reached out to, if you've -- I am hoping 22 you'll do it proactively, get us the results early by 23 November, by Halloween, for the FY '16 report so that we 24 can get that completed in a timely fashion. 25 Anyway, with that, just thank you, and that's</p>

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1 all I've got to say.  
 2 MS. CARSON: Thank you so much for joining us.  
 3 Again, that was the chief of staff for the Small  
 4 Business Administration Nicolas Maduros. I appreciate  
 5 your time, and we wish the administrator success in the  
 6 testimony on SBA's contribution to disaster relief.  
 7 MR. MADUROS: Thank you.  
 8 MS. CARSON: We are going to start with the hard  
 9 work first, and that is finding some consensus on where  
 10 we've been and the decisions we've made and how to move  
 11 forward from this point. And again, for those who are  
 12 on the phone, I'm going to read some of the things that  
 13 are on these slides so that we are all in the same  
 14 place, and you are welcome to contribute at any time. I  
 15 do ask that if you're on the phone, if you will just  
 16 stay muted when you don't have something you would like  
 17 the whole group to hear. We will let you know if we're  
 18 hearing something.  
 19 So, we are taking a look at the original  
 20 Interagency Task Force recommendations that were  
 21 proposed in 2011, and we have been working against them,  
 22 but some of them were not specific, or they had been  
 23 addressed and closed, but we continued to share updates  
 24 in that realm for each one of them.  
 25 We have made enough progress that it's time to

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1 say, we can conclusively decide certain ones have been  
 2 closed because they've been addressed by policy or  
 3 regulatory change or law, that we have found a barrier  
 4 to achieving it, it was not achievable in the way it was  
 5 phrased or put in front of this body. So, on some of  
 6 those, you will hear us say pivots. It's going to be in  
 7 the same vein, but it's something we can achieve.  
 8 And moving forward, we're looking to find those  
 9 barriers to entry for veteran entrepreneurs, especially  
 10 in the Federal space, where this body, the members,  
 11 remember, are all Federal agencies and four veteran or  
 12 military service organizations, what can we do?  
 13 The ones that we have closed include increase  
 14 the awareness, access and utilization of microloans in  
 15 the veteran-owned small business community, and please  
 16 forgive me, that one is staying. We have more to do on  
 17 microloans, and those are loans that SBA designs as zero  
 18 to \$50,000. Many businesses have a small barrier to  
 19 entry as far as capital is concerned, and we see that  
 20 those rates of use have maintained or fallen and we  
 21 believe that we can effect change there. So, forgive  
 22 me, one will stay.  
 23 The next requires a pivot. We recommended  
 24 closure but got a lively discussion in June, and so we  
 25 look forward to getting input from the agencies that can

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1 help with this one, develop Government-wide tools and  
 2 information to support buying activities based on market  
 3 research sources, industry statistics, supplier-based  
 4 requirements, and success stories. The suggested pivot  
 5 was development and training on those systems that many  
 6 of them do exist right now. So, I'm going to return it  
 7 to comment for those members here in the room.  
 8 MR. WESLEY: So, this is Kenyata, DoD, for the  
 9 folks on the phone. One of the things that we will do  
 10 within the department, we just developed what we call  
 11 MRCOE, which is our Market Research Center of Excellence  
 12 platform. And it is a three to four -- right now it's  
 13 three, but it will potentially grow to a four, have a  
 14 fourth section to it, where it has data analytics, data  
 15 intelligence. It has statistics, and we can actually do  
 16 a comparison which most people in the department call  
 17 MaxPrac, for maximum practical opportunities, which when  
 18 we get to the next bullet, I will talk about that there,  
 19 too.  
 20 But it allows us to kind of define and  
 21 compare -- so, for example, one of the organizations in  
 22 my -- under my umbrella within the Department of Defense  
 23 has an IT main infrastructure. Well, I could turn  
 24 around and compare that IT small business utilization or  
 25 in this case veteran or service-disabled veteran

12

1 utilization with other like organizations within the  
 2 Federal Government, so we can find out how we are really  
 3 doing. So, if we're doing 20 percent, which obviously  
 4 might not be bad, but at the same time, another  
 5 organization in the Federal Government is doing 35, I  
 6 need to figure out what they're doing differently than  
 7 us, or if it's the fact that they have access to  
 8 companies we don't have access to. Things of that  
 9 nature.  
 10 So, it allows us to now see what we couldn't see  
 11 before, and it allows us to make sense of the data in a  
 12 manner in which has never been seen before by the  
 13 department. So, we will be willing to -- we actually  
 14 already are partnering with the Veterans Administration  
 15 on that, me and Tom Leney. They will have a version of  
 16 that tool as well.  
 17 So, those who couldn't get in to talk to me  
 18 within the department, as far as from a Federal agency  
 19 standpoint, can also work with Tom Leney, because he  
 20 will have his version of the tools come October 1. All  
 21 right.  
 22 MS. CARSON: Thank you, this is Barb from SBA.  
 23 May I ask as we move these pivots, to try and be  
 24 specific about what our goal would be, how we measure it  
 25 and what timeline. So, it sounds like this exists, but

<p style="text-align: right;">13</p> <p>1 how will we do the outreach to contracting officers and 2 veteran entrepreneurs so they know this resource is out 3 there? 4 MR. WESLEY: So, this is actually, the way this 5 is phrased is it's really for the buying activities and 6 market research, not necessarily for the veterans group, 7 the way this is phrased, okay? So, what I'm saying is, 8 anyone who wants to learn what we have done within the 9 Federal Government space, whether it be Treasury, Labor, 10 doesn't matter where. I'm open to have a meeting with 11 them, show them the tool, have my team demo it for them, 12 and if they would like to potentially partner and team 13 to use it or have a version of it built for their space, 14 they can -- if they have the funds, they can do it. 15 Now, I can't give them mine, because it's set up 16 for me, because there is some tailoring to the tool. 17 But at least they can see it, and I can give them access 18 to the company that designed it, built it, and it 19 probably will not be very expensive. I can't give a 20 price, but since they have already built the platform, 21 it's Government-owned. I don't see that it would be 22 probably too expensive to convert it over to any 23 Government agency if they liked it. 24 So, at least they have some options, or if the 25 SBA wanted to take it and do something Federal-Wide with</p>	<p style="text-align: right;">15</p> <p>1 MS. CARSON: Thank you. And that was Mathew 2 Blum from Office of Management and Budget who just gave 3 those remarks. Thank you for the idea, I believe that 4 makes sense. 5 So, we will take that on, and also I will commit 6 that I know I have allies in SBA that this will also go 7 to the Small Business Procurement Advisory Council for 8 consideration, if it has not already. 9 Are there any other comments on this topic 10 around the room? First? Anyone on the phone? 11 (No response.) 12 MS. CARSON: Okay, we're going to move on. This 13 is a new proposal that was submitted by a member of the 14 IATF, and that's Vietnam Veterans of America. The 15 proposal is to review the policies of all Federal 16 departments and agencies to ensure that no types or 17 classes of contracts are excluded from the base against 18 which the 3 percent required goal for awarding contracts 19 to service-disabled veteran-owned small businesses is 20 computed. 21 So, I am going to turn now to our representative 22 from VVA for comment. 23 MR. KLINGELHOFER: Yes. This is Victor 24 Klingelhofer for VVA. Public Law 106-50 is the 25 Government-wide goal for participation by small business</p>
<p style="text-align: right;">14</p> <p>1 it, you would have those options as well. All right? 2 And you could do that as immediately as after this 3 meeting. I am fine with the timeline. 4 MS. CARSON: Thank you. Then what I'm going to 5 take for the record is that I will get that from you, 6 share it with the members of this body, and if I may ask 7 for a presentation from DoD from subject matter expert 8 in our December 2016 meeting? 9 MR. WESLEY: Consider it done. 10 MR. BLUM: Barb, this is Mathew Blum from OMB. 11 And also, as another step, we have a Federal 12 benchmarking initiative where we have developed 13 benchmarks, Government-wide benchmarks in the 14 acquisition space. And what you just described in terms 15 of helping agencies align themselves with other agencies 16 with similar missions and buying practices, I think this 17 tool might be an excellent way to help broaden 18 consideration of small business achievement through the 19 benchmarking initiative. 20 Though as agencies, if this is demoed and 21 agencies start doing some piloting of it, we might also 22 get some folks that are part of the Federal benchmarking 23 initiative to be -- listen to those conversations and 24 start socializing this more broadly, whether it SBA's 25 lead or somebody else.</p>	<p style="text-align: right;">16</p> <p>1 concerns owned and controlled by service-disabled 2 veterans shall be established at not less than 3 percent 3 of the total of all prime contract and subcontract 4 awards for each fiscal year. Now, we have heard over 5 the years a great deal of oral speculation concerning 6 exactly what contracts comprise the base on which this 3 7 percent is awarded. And we've heard, for example, that 8 major weapon systems -- and I don't know if these are 9 accurate or not, these are just things we've heard. 10 Major weapon system procurement from DoD, which 11 obviously can't be awarded as prime contracts to small 12 businesses, are excluded from DoD's base. Or that the 13 VA does not award -- include certain types of awards on 14 medical devices to -- in its base that it computes. 15 We know that and we've seen that subcontractor 16 awards in the past have not been included in the 17 contract base because those were considered as task 18 orders and not contracts. Well, and the Kingdomware 19 decision from the Supreme Court took care of that by, 20 you know, essentially saying if it looks like a contract 21 and quacks like a contract, it is a contract. No matter 22 what you -- you know, what you say about it. 23 So, we're still at a quandary as to what exactly 24 is the contract base for each agency, and I don't 25 believe that this is Government-wide, I believe that</p>

17	<p>1 some agencies do include all of their contracts, but 2 that's, again, just speculation on my part. 3 You know, so what exactly, then, is the contract 4 base on which the 3 percent is computed? You know, 5 106-50 says that it is the total value of all prime 6 contract and subcontract awards. We simply don't know, 7 and I think that if nothing else, if this is pure 8 speculation, we should put that speculation to rest, or 9 if there is accuracy here, then I think that we have a 10 situation that needs investigation. 11 And therefore, VVA proposes that we collect data 12 from all agencies relating to this issue, and probably 13 by March 2017, collect data, and then evaluate that data 14 over the next quarter until by our June '17 meeting, and 15 then we can come up with recommendations by basically a 16 year from now, or I think the September 2017 meeting. 17 We think this is an important issue, because we 18 think that agencies, and again, this is speculation, we 19 believe and we've heard that agencies are playing with 20 the 3 percent figure by excluding whole portions of 21 their contract awards from the base on which the 3 22 percent should be awarded. And again, this may be pure 23 speculation, and, you know, I think that I have heard 24 and we've heard from enough people who are concerned 25 about this that it should be put to rest one way or the</p>	19	<p>1 the Veterans Conference for the Army, and one of the, 2 things that came up back then was small businesses, 3 specifically service-disabled veteran and veteran-owned 4 companies didn't have a lot of capital, and they wanted 5 to know exactly what kinds of opportunities were 6 available to them, so they didn't spend their wills and 7 waste resources going down a wrong path when it didn't 8 even exist at all. 9 I think what you really want us to do is give 10 clear opportunities, or clear classes of contracts that 11 are available for veterans, service-disabled vet and/or 12 small businesses. What we're doing now is dancing 13 around the issue, all right, and it's not how the goal 14 is calculated, it's about what opportunities really, 15 truly exist for veterans and service-disabled veterans. 16 I believe that's the real challenge. How do we make 17 sure that we're communicating well? 18 I've been around now for over 20 years and it 19 wasn't until the last seven years or so where we've 20 actually gotten to where I believe all the Government 21 agencies are communicating well with all of the veterans 22 groups and service-disabled vet groups. I think what we 23 don't do well is tell our success stories. We don't 24 tell you where the maximum opportunities are and how. 25 All right? And I think that's probably what we really</p>
18	<p>1 other. Thank you. 2 MR. WESLEY: So, Victor, this is Kenyata Wesley 3 again, I'll go first. Because I think -- because the 4 first example you used was actually major weapon 5 systems, which falls in DoD. So, the first thing I will 6 tell you is that is pure speculation. There is no truth 7 to it whatsoever. The only exclusions that we have from 8 the calculation within the Department of Defense are 9 those listed in the FAR. 10 So, one of those is TRICARE, for example, all 11 right? Whether -- it doesn't matter whether you're a 12 veteran or HUBZone or woman-owned. As of right now, 13 there is no small business anywhere in the world that 14 actually can deliver the insurance for medical insurance 15 for our active duty service members and/or veterans that 16 may qualify for TRICARE utilization. 17 Immunizations is another. Right now, there's no 18 small business vaccine makers; therefore, vaccines are 19 out. All right? So, what I would caution everyone with 20 this discussion is to be careful what you ask for, 21 because this could lead down a path to where not just 22 veterans are harmed, but also regular small businesses, 23 woman-owned and so forth can be harmed. 24 I'm going to tell you how. We've had these 25 discussions, and when the late Ms. Penson used to have</p>	20	<p>1 should be going after. 2 So, if I suggested a pivot to this, I would 3 suggest revamping this all together, not because I'm 4 afraid to tell you what's in the -- what's in our 5 exclusion, because it's in the FAR. It's in the FAR, we 6 have the exclusion, the only exclusion -- other 7 exclusions versus what's in the FAR that we have, and I 8 will tell you right now, are contingency environments. 9 So, if it's going down range, they're right now the 10 contracting officer may set that aside. And then, of 11 course, SOFA agreements, because -- status of forces 12 agreements is what SOFA stands for. I don't get a 13 chance to break that work out. If there's a status of 14 force agreement that says a host nation in Iraq or 15 Afghanistan has first right of refusal, we have to wait 16 until they refuse the work. That is the law. I don't 17 get a chance to even have anything to do with that. 18 But I think what we can do, specifically, is 19 honestly tell you based on our -- for example, the MRCOE 20 tool I was just telling you about. I now can tell you 21 where veterans have been performing well, and what our 22 future opportunities that are coming up, based on our 23 forecasting tool that we just developed as well, called 24 Sapphire, I will now be able to do those things, which 25 we just developed those this year. So, we weren't able</p>

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1 to tell you any of this before this year. All right?  
 2 Thank you.  
 3 MS. CARSON: I'm going to ask a clarification  
 4 question. It's Barb at SBA.  
 5 So, thank you for explaining. It sounds as if  
 6 it is transparent, you need to know where to look. So,  
 7 when you're, Victor, at VVA saying it's confusing or  
 8 people believe it doesn't -- it's not clear, that is it  
 9 an acceptable activity to take on the specific thing  
 10 that he asked, which was we would provide how, if at  
 11 all, agencies exclude opportunities from small business  
 12 in general. If you're -- if you can accept that, sir, I  
 13 think that would meet the first mark on VVA's request.  
 14 MR. WESLEY: Agreed.  
 15 MR. KLINGELHOFER: And let me be clear about  
 16 this. We're not saying that TRICARE awards should be  
 17 made to SDVO SBCs. What we are saying, though, it is  
 18 the three -- it is the base on which the 3 percent is  
 19 calculated that we should look to make sure that that  
 20 base includes all contracts and subcontracts which is  
 21 what PO 106-50 requires.  
 22 You know, we agree that there are many contracts  
 23 where there are no small businesses. You know, there  
 24 are no small business vaccine makers. I agree. You  
 25 can't award to them, but that doesn't mean that the

22

1 contract -- total contract value of such awards should  
 2 not be included in the base on which the 3 percent is  
 3 computed.  
 4 MR. WESLEY: And that's where we kind of have a  
 5 fundamental disagreement, all right? And the reason I  
 6 have a fundamental disagreement on it is it should not  
 7 be included -- and maybe what we really need to do is  
 8 the next time I'm summoned to the Hill, I need to put it  
 9 in my testimony, because I'll have to do it soon, but  
 10 one of the things that I want to make sure that we do is  
 11 actually put out there that maybe what needs to happen  
 12 is the PO needs to change, because if it's leading  
 13 people to believe that it should be on the total base,  
 14 that's a problem. Because if you are sitting here  
 15 thinking, in any way, shape or form, that having --  
 16 moving the base or the denominator is going to help get  
 17 opportunities for service-disabled vets, that's not  
 18 going to happen. That's not how it works.  
 19 The way it works is based on the market research  
 20 that's conducted to see if an opportunity even exists,  
 21 or the companies exist. And by including numbers that  
 22 small businesses do not even have the opportunity for,  
 23 because they don't exist, we are now jading where  
 24 companies are potentially investing or wasting money to  
 25 go down. And what we don't want to do is have a company

23

1 go out of business because they are spending in the  
 2 wrong places, all right?  
 3 I truly am one of those folks that believe that  
 4 I want my industrial base, my small business industrial  
 5 base to be around. I need them around, because the  
 6 diverse mission and complex mission of the department is  
 7 important, and I can't have them not be here. When it  
 8 comes down to vet and service-disabled vets, I need them  
 9 more than I need most others, and I admittedly say that  
 10 publicly on the record.  
 11 The reason I say that is because who knows the  
 12 department mission better than those who have already  
 13 done it and performed it on active duty? But if I've  
 14 got them spending money in places to compete in places  
 15 where they don't even have minimum opportunity, then I'm  
 16 steering them down the wrong ship and I can't have that.  
 17 I need them around.  
 18 Does that make sense?  
 19 MR. KLINGELHOFER: I understand your position  
 20 and I think that the disagreement, shall we say, or the  
 21 differences of opinion here are precisely why we need to  
 22 look at this. And merely because it is a FAR exclusion,  
 23 you know, that's a regulatory exclusion, and it's our  
 24 position that that may conflict with the legislative  
 25 intent.

24

1 So, I just want to look at this and come up with  
 2 some ideas.  
 3 MR. BLUM: This is Mathew Blum. I believe that  
 4 the Government contracts and business development folks  
 5 here at SBA actually did a comprehensive review of this  
 6 issue more broadly, not specifically to the statute, but  
 7 if I recall correctly, in one of the recent NDAAs, I  
 8 think Congress directed some work in their way that  
 9 resulted in their counsel's office looking at this. And  
 10 I think part of that analysis, for example, folks may  
 11 recall, resulted in a significant change to start  
 12 including overseas work, OCONUS work in the calculation  
 13 of the goals.  
 14 So, it may be helpful to ask Barb for them to do  
 15 a presentation. It can either be done in advance or at  
 16 the next meeting, but I think that would be a helpful  
 17 first step, because I do agree with Kenyata that this --  
 18 it's an important issue, but it does have impact that  
 19 actually goes beyond just this community. And if we --  
 20 whatever change we make here, I think it needs to be  
 21 thought about for how small business goaling is  
 22 calculated in the other areas.  
 23 And also, if I hear you correctly, in saying  
 24 that you want to look at the issue, that this -- the way  
 25 it's currently written in the goal, it reaches a

25

1 conclusion, and given that, you know, it's possible that  
2 we -- it may be appropriate to have some type of  
3 exclusion, but maybe with either greater transparency,  
4 or more accountability, whatever the case my be. I  
5 think that there needs to be some retooling of the  
6 recommendation.

7 MR. HEILMAN: This is Craig, SBA. So, with  
8 respect to retooling a recommendation, I would propose  
9 as potentially a compromise on the language that's in  
10 front of us here. You know, I guess what I would call  
11 denominator discovery, this is kind of the topic, would  
12 VVA, and Mr. Wesley, agree to review the policies of all  
13 Federal departments and agencies to investigate what is  
14 currently excluded from the 3 percent base, and make  
15 this more of a -- because to Mr. Wesley's point, there's  
16 legitimate reasons why things are in the FAR and  
17 excluded. And to add them back could potentially be  
18 misleading to small businesses.

19 So, would that be an acceptable compromise  
20 language to say, you know, instead of to ensure that  
21 nothing is excluded, to determine what is currently  
22 excluded across the Federal Government.

23 MR. WESLEY: I'm fine with it.

24 MR. KLINGELHOFER: Yes, we can certainly make a  
25 change like that, because that was really the intent.

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1 And I apologize for my wording. You know, I think if we  
2 investigate which types are classes of contracts are  
3 excluded, which they're excluded, and come up with some  
4 possible recommendations, then that would be fine.

5 MS. CARSON: Thank you. This is Barb at SBA.

6 So, we will make that modification when the  
7 transcript comes out, we will use that and also in a  
8 summary to everyone and make that public as well. And  
9 we will stick to the timeline that you proposed from VVA  
10 for action. And finally, we will have a presentation  
11 from the Small Business Administration Government  
12 Contracting Development Office on that study and what we  
13 learned.

14 Thank you, we're moving on, you seek legislation  
15 to create a business development program for  
16 economically disadvantaged service-disabled  
17 veteran-owned small businesses modeled on the SBA's 8(a)  
18 Program. This was proposed by Vietnam Veterans of  
19 America. I'll turn it to you, sir, for further  
20 discussion.

21 MR. KLINGELHOFER: As an initial matter, the  
22 reason for this is that approximately 70 percent of the  
23 SDVO SBCs, or more, actually, I think it's more than 70  
24 percent, are owned by Vietnam-era veterans, and there's  
25 nothing wrong with Vietnam-era veterans, but we think

27

1 that it is important to start trying to increase the  
2 numbers of more recent veterans. And, you know,  
3 speaking from personal knowledge, a lot of the reasons  
4 why the younger veterans are not developing their own  
5 small business concerns is many of the reasons for which  
6 8(a) companies seek assistance. You know, this is not  
7 to support -- meant to change what we have now with  
8 regard to the program, it is meant to augment the  
9 program by basically helping economically disadvantaged  
10 veterans.

11 Now, having said that, I realize now that this  
12 is not an appropriate goal for this task force. You  
13 know, this task force is not supposed to recommend  
14 legislation, and so I think we need to withdraw this  
15 proposed recommendation and instead pursue it on the  
16 Hill. Thank you.

17 MS. CARSON: Any comment within the room?

18 We have one. Just one moment, sir, while we get  
19 a microphone for you.

20 MR. WYNN: Good morning. This is Joe Wynn,  
21 VET-Force VVA. I'm going to have to disagree with my  
22 colleague of pulling that off the table. Maybe this  
23 task force doesn't need to propose legislation, but it  
24 definitely needs to support a program for  
25 service-disabled vets that will move the needle and get

28

1 more service-disabled vets opportunities for  
2 contracting.

3 I think most of you are familiar with the --  
4 familiar with the 8(a) Program, and how it works. For  
5 quite some time, we have talked about trying to get some  
6 type of vehicle that would allow contracting offers and  
7 agencies to offer more opportunities to service-disabled  
8 vets. This type of program that is being proposed  
9 would, in fact, do that. And, so, you know, to have --  
10 and, so, to have, you know, an opportunity to have such  
11 a program that would increase opportunities for  
12 service-disabled vets, I think we need that.

13 We're not necessarily -- when we had our  
14 discussion of this, we weren't talking about -- and this  
15 has been talked about before -- trying to get  
16 service-disabled vets into the 8(a) Program. That kind  
17 of was not, you know, viewed very favorably among many  
18 of the veteran-owned businesses, but what we are talking  
19 about here is some type of program, some type of vehicle  
20 that will offer or an incentive and also authorization  
21 to contracting officers to be able to award contracts to  
22 service-disabled vets, particularly, as you know,  
23 there's a key feature in the 8(a) Program where they can  
24 make direct awards to 8(a) contractors. Why not have  
25 that same opportunity for service-disabled vets?



29

1 Thank you.

2 MS. CARSON: This is Barb from SBA.

3 I value the intent of this recommendation, but  
4 find some barriers and obstacles I would like to  
5 discuss. One would be that it would be perhaps  
6 worthwhile to look at how much 8(a) is utilized as a  
7 tool in contracting right now, and for us to feel that  
8 we have a variety of measures that we can take to ensure  
9 that veteran small business owners are prepared to  
10 compete, have the opportunity, and those may not be  
11 served best by this.

12 So, there are a couple of things that I broke  
13 this down. They do need business development. We are  
14 taking action in that arena. One of them is by the  
15 expansion of the Veteran Business Outreach Center  
16 Program, for example. Another is the increasing  
17 attention of our resource partners of SBA on veteran  
18 business and training them. We've increased our numbers  
19 significantly in how we're reaching people and catching  
20 them in the beginning of their business life cycle to  
21 make them, as Tom Leney would say, procurement-ready.

22 Finally, we have made, as an agency, a  
23 significant investment in a very successful program  
24 specifically for procurement and that's the Veteran  
25 Institute for Procurement, where so far, we have almost

30

1 800 graduates of that program, they're very successful  
2 in Federal procurement and they're turning around and  
3 serving in their communities to mentor others, in  
4 conjunction with our existing resources.

5 Another measure that we are taking is evaluating  
6 why the programs that exist now are not being utilized.  
7 Sole source authority, a current 8(a) Program in  
8 general, not -- I'm looking at it, you know, what would  
9 happen if I tried to get SDB in there, and I'm seeing  
10 some challenges that this body can continue to  
11 investigate.

12 My concern, Mr. Wynn, is that we would increase  
13 the flow, but haven't changed the success in getting  
14 opportunity. And, so, I'm really working on those  
15 measures as well. So, if you can help me, I believe we  
16 need to take this one back for further action, and I  
17 would not believe that we could accept it as it is  
18 written at this time, but I'll stand by for comment.

19 MR. WESLEY: Okay. So, this is Kenyata Wesley.  
20 The -- we get down into what are we trying to get? I  
21 think that's really the important question.

22 MS. CARSON: Yes.

23 MR. WESLEY: The way this is worded right now  
24 about going for legislation, I agree with you, that's  
25 not the -- that's not what this body is for, to seek

31

1 legislation. So, it would have to be rewritten, period.

2 Two, I believe what the service-disabled vet  
3 community and the veteran community want is an 8(a) type  
4 rule, which also seeks legislative change. We don't  
5 have the authority within this body to do that. That is  
6 a legislative change. And, so, if that is the end  
7 result, which I don't think many people in here probably  
8 object to, but if that's the end result, we, this body,  
9 isn't the one.

10 Now, when you say support it -- I'm looking at  
11 Wynn -- when you say support it, you've got to have  
12 something to support, and I don't think there's  
13 anything -- any legislative proposal by your committees  
14 or your teams and organizations sitting on the Hill for  
15 us to support or disagree with right now. So, I think  
16 the leg work right now is on you to give us something to  
17 go support. Does that make sense?

18 Now, when you talk about service-disabled vets  
19 not having a sole source provision, we do have one, it's  
20 just not -- and the reason you said why isn't it being  
21 used? I will tell you why it's not being used in the  
22 department, I can't speak for other organizations, but  
23 the reason it's not being used widely, that's the key,  
24 because it is used periodically. The reason it's not  
25 being used widely is because it requires a justification

32

1 and approval document, and that number counts against  
2 competition in a negative manner.

3 The Congress is telling us, compete, compete,  
4 compete. Well, by telling us compete, compete, compete,  
5 if you then turn around and do a sole source action that  
6 requires a justification and approval, which then counts  
7 against the number negatively, that discourages people  
8 from using that provision. So, we've got to be very  
9 careful that we are all moving towards the same  
10 direction. Does that make sense?

11 MS. CARSON: This is Barb at SBA.

12 We have two comments. I'm going to go first to  
13 Mathew Blum at OMB.

14 MR. BLUM: Thanks, Barb.

15 So, I think this has been a very healthy  
16 conversation, and one process point, just for future  
17 reference, it is awkward, it would be awkward for this  
18 board to propose legislation, but there are ways in  
19 which this body can be very helpful in doing the leg  
20 work that might inform this or the next or a future  
21 administration in work.

22 So, for example, just as a thought, because I  
23 heard, Bill, if I heard you correctly, it sounds like  
24 your organization will pursue legislation on the Hill,  
25 which is certainly your prerogative, and it probably, I

33

1 don't want to speak for you, but my guess is that it  
2 would be -- you would welcome the opportunity, I'm  
3 guessing, or your organization and the other folks here,  
4 to use this body to have a conversation to figure out  
5 what might make sense in a legislative proposal.

6 So, one thing, for example, that this body could  
7 do in order to have this kind of conversation is to  
8 instead of proposing legislation, is to conduct an  
9 analysis of the benefits and drawbacks of creating a  
10 business development program for economically  
11 disadvantaged SDVO SBCs modeled on the SBA's 8(a)  
12 Program.

13 At the last board meeting, I believe that our  
14 friend Max Kidalov had done a rather lengthy  
15 presentation of not only what Kenyatta said, but some  
16 other issues with respect to the fact that the lack of  
17 business development was a drawback in the use of the  
18 tool. I'm not giving it credence, the proper credence.  
19 That doesn't mean that there aren't other tools, as you  
20 mentioned, Barb, and maybe those tools are, you know, on  
21 balance are doing the job and that we should seek to  
22 make sure they're working well. And creating a program  
23 obviously has a cost and complexity with it.

24 But just to state, I think, you know, rather  
25 than having some members go propose legislation and then

34

1 getting frustrated that other members of this board who  
2 aren't quite on board, maybe we can try to have a  
3 coordinated discussion by developing a White Paper using  
4 some of the conversation that this board has already  
5 had, building on it. That paper could also include  
6 specs for legislation of things that you think,  
7 components, you know, that are either built on 8(a) or  
8 maybe different from the 8(a) Program and, you know, we  
9 could present that paper to the SBA administrator, could  
10 be presented to the OMB director, however we wanted to  
11 craft that.

12 So, you know, then a future administration, if  
13 they wanted to propose legislation, you would  
14 potentially be in sync.

15 MR. KLINGELHOFER: We certainly would have no  
16 objection to changing this recommendation to state  
17 conduct an analysis of the benefits and drawbacks, I  
18 believe was a term you used, relating to possible  
19 creation of the business development program.

20 MS. CARSON: We have a comment in the room. Go  
21 ahead.

22 MR. PHIPPS: My name is Michael Phipps, I'm with  
23 the Advisory Committee on Veteran Business Affairs that  
24 meets the day prior to this. I also testified on the  
25 Hill about the Kingdomware decision, and all of this is

35

1 related. Just to give you guys an idea, this is about a  
2 five-page document where I have gone back to 1974 that  
3 talks about creating a business development program for  
4 services -- [inaudible portion of proceeding] -- I will  
5 give you a short answer, but there have been, for any  
6 number of reasons, issues over the last 20-something  
7 years that have stopped the service-disabled  
8 veteran-owned business development program.

9 When I started doing this 10 years ago, the  
10 Vietnam guys used to come up to me and complain about  
11 it, and I had no idea what they were talking about until  
12 I kind of -- until I had been involved. So, it's  
13 something that's an earned benefit that we definitely  
14 need, and actually we're putting together right now in  
15 our committee why we think there doesn't need to be too  
16 much additional legislation, if any, on how that could  
17 be done, and I'm more than happy to share that with this  
18 committee, to individual organizations, and the agencies  
19 on this committee.

20 We have a number of really informed law firms  
21 that are assisting in this. The reality is, according  
22 to max Kidalov's report is that even with all of this  
23 additional assistance for service-disabled veterans,  
24 their participation in Government contracting is  
25 declining. And if that's the case, then we know that

36

1 these -- and granted, the work that Barb and Craig are  
2 doing has not had a chance to filter through, but we  
3 understand that it's a business development issue, and  
4 that was a topic of our last committee hearing.

5 And, so, the lack -- Kenyatta hit it on the head  
6 with why the sole source isn't being used. There's a  
7 number of other reasons. Basically it's equivalent to  
8 just a regular small business setaside. The  
9 service-disabled language, contracting officers really  
10 can't use it, it's not just in DoD, it's  
11 Government-wide.

12 We did a search in FPDS. We found seven when we  
13 did our search, and to try to figure out how often it's  
14 been used. There may be more, maybe we did our search  
15 wrong. Even if we did it wrong, those numbers, it's not  
16 going to grow from seven to 10,000. So, that being  
17 said, I would really appreciate this body considering  
18 revamping that language to keep this agenda item going.

19 Thank you.

20 MS. CARSON: This is Barb from SBA.

21 Mr. Phipps, would you accept the language that  
22 was proposed to assess the benefits and drawbacks, and  
23 present to this body in December of 2016 with what  
24 you've learned at that point?

25 MR. PHIPPS: What I would suggest is that this

37

1 body look at what needs to be done in order to establish  
2 that program as opposed to the drawbacks. I think we  
3 know the drawbacks, there's plenty of information about  
4 the drawbacks, but to examine what would need to be  
5 done, and that could include drawbacks for such a  
6 program.

7 MR. WESLEY: Okay. So, given what you have just  
8 said, given what both of the veteran groups that are --  
9 or two of the three veterans groups that I represented  
10 here, at least in the room, I heard what you said, all  
11 right? And I'm going back to what Barb said for those  
12 who are on the phone, so I looked at Barb when I said  
13 "you."

14 Barb listed several initiatives that are  
15 ongoing. I think the challenge here goes back to what I  
16 said the department doesn't do well, which is brag on  
17 ourselves, and I think what you haven't done in the SBA  
18 is organize it in a manner in which it is set up as a  
19 veterans development program, and couch it in the form  
20 to be fully transparent with the group as far as that  
21 this is our veterans development program. This is what  
22 it encompasses, make it -- outline it.

23 Because I keep hearing it doesn't exist, but you  
24 just outlined at least five initiatives that are  
25 ongoing. I just think we just haven't put it together,

38

1 put it out on our websites, each of our websites, that  
2 says hey, this is the service-disabled veteran or  
3 veteran development program, and it encompasses these  
4 three footstools, or four footstools, or five, however  
5 many it may be, and how each of them work. That way,  
6 everyone will know it does exist. That's the first  
7 thing.

8 B, then everybody can actually give comment that  
9 says, this is positive, we should tweak this, and then  
10 the only thing that I believe would be remaining would  
11 be whether or not some type of legislative change would  
12 need to be put forth on the changing or tweaking of the  
13 sole source provision, but that, of course, wouldn't  
14 come from this body.

15 But I think what the body really should be doing  
16 is taking a look at how you have a current program.  
17 Because it does exist, it just hasn't been advertised  
18 and told the story. And then we go after the sole  
19 source thing in a different avenue.

20 MR. BLUM: So, I'm sorry, Kenyata. So, are you  
21 suggesting that we develop some sort of outreach  
22 program? Is that what you're describing?

23 MR. WESLEY: Well, they already have it. You  
24 know, there is a veterans outreach program now within  
25 the --

39

1 MR. BLUM: No, I don't mean outreach in terms of  
2 a program for veterans, I mean our outreach to basically  
3 do messaging, story-telling, to bring these --

4 MR. WESLEY: Correct.

5 MR. BLUM: -- because I didn't note of all the  
6 pieces that Barb was describing, and maybe we should  
7 have a recommendation that makes sure that that happens.

8 MR. WESLEY: Yeah, because right now it just  
9 doesn't seem like people know what you're doing.

10 MR. BLUM: And that this body is then happy with  
11 the, you know, the way that that message is being  
12 presented. Because I think that would be a good -- a  
13 good function for this board. For this task force.

14 MS. CARSON: It's Barb at SBA.

15 Then I commit that in December, I will work with  
16 the chair of the Advisory Committee on Veteran Business  
17 Affairs to outline what does exist currently, and the --  
18 because I'm afraid that it's not transparent to  
19 everybody, not everybody knows as much as you, and I  
20 think this would be a valuable learning opportunity to  
21 describe what we perceive as the gaps that remain, and  
22 whether or not a new program is one that we -- is what  
23 we would recommend as a body.

24 So, again, a presentation of existing, and then  
25 recommendations. And the timeline would again be in

40

1 this coming fiscal year.

2 MR. WESLEY: I think that's important, because  
3 before we go trying to drive a train in a direction, we  
4 need to at least know what's out there and have an  
5 understanding of what the intent of those things are,  
6 not just what we say on a piece of paper, but what the  
7 intent is, because I -- I have a feeling that some of  
8 the people who are saying that it doesn't exist are  
9 getting stories back from their groups that are saying,  
10 hey, I tried this, I tried that, I talked to this  
11 person, I got nowhere.

12 But what I found out in my own organization,  
13 which is massive, you're only as good as the employee  
14 that person saw. All right? And, so, if that employee  
15 didn't know the intent, and didn't know the scalability  
16 of what could be done, they said no to this veteran  
17 person or the veteran organization that came to see  
18 them.

19 So, I think if everyone understands what's being  
20 done, what's funded to be done, all right, because if  
21 they know what's funded to be done and they have a wish  
22 list, it would be also better to know that there's a  
23 price tag that comes with the additional wish list, and  
24 we have to figure out who's going to fund it. All of  
25 that needs to be a part of this discussion.

<p style="text-align: right;">41</p> <p>1 MR. PHIPPS: This is Michael Phipps again. What  2 Kenya just said is exactly where our recommendation is  3 going. There are a lot of programs to help  4 service-disabled veteran-owned businesses and  5 veteran-owned businesses. The issue is that it's not  6 under one single business development program that is  7 laid out.  8 There are disparate assistance programs, and we  9 need to bring it in under one umbrella, exactly like  10 Kenya is talking about with the legislative change  11 that allows that sole source authority, the direct award  12 authority, similar to what the 8(a) programs have, and I  13 think really what Barb and Craig and their organization  14 is doing, they have the exact -- they have that program,  15 they have it under one roof, it just needs to change  16 into a single program.  17 MR. HEILMAN: It sounds like there are two  18 things here that are coming out of the conversation.  19 One is kind of the easy one in terms of us coming back  20 and telling you how are these things going to integrate  21 and how could they better integrate if we looked at it a  22 little bit broader. I think the integration of these  23 disparate programs that Mr. Phipps is referring to has  24 been a key part of our strategy, but we may not have  25 amplified that enough to this board, and certainly our</p>	<p style="text-align: right;">43</p> <p>1 and that was because it was a service-disabled  2 veteran-owned company that had a particular skill set  3 that was needed and they basically wrote the  4 justification around that, you know, requirement.  5 And, you know, that should -- direct award  6 should not be limited to such situations. And I agree  7 that with the twofold approach.  8 MS. CARSON: Since we don't have the exact  9 wording done, then in the draft fiscal '16 report that  10 we are going to craft as a body, I will put down the  11 best representation that we can for members, and you  12 represent VVA, you'll go back and make sure that we've  13 got it, and this will be one of the deliverables of our  14 fiscal '16 report is getting these exactly right, but  15 that won't stop us from being accountable for the  16 actions you requested, and we will present on that.  17 We have completed the discussion on the -- we've  18 bucketed recommendations into different categories.  19 This one was increased growth opportunities for  20 veteran-owned small business. We are going to pause on  21 the recommendation review to turn to two topics that are  22 on top of mind, and we have representatives here from  23 the Small Business Administration to address, and those  24 are the Mentor-Protege Program, and the other is the  25 impact of the Kingdomware decision across Government,</p>
<p style="text-align: right;">42</p> <p>1 efforts to get that out into the broader community of  2 all of our stakeholders is paramount as well.  3 The second part of that, though, going back to  4 the original recommendation with respect to trying to  5 study this a little bit further to get at some of the  6 technical things, like what Mr. Wesley said around you  7 do a J&amp;A and you're not -- you don't have competition.  8 And what is, you know, what are the things and, you  9 know, from an OMB perspective that would loosen that a  10 little bit that could potentially make a huge -- a small  11 step that could potentially make a huge difference for  12 all the contracting officers out there that say I really  13 want to do this, but I just can't, because I've got  14 conflicting goals.  15 And that certainly is what came across loud and  16 clear in the Kidalov report, and when we had the  17 contracting officers from DoD that kind of testified to  18 that. So, potentially, I think that we can do both of  19 those things and leverage the authority of the advisory  20 committee and this board to have SBA go do some more  21 research on the topic.  22 MR. KLINGELHOFER: Yes. I mean, one of our key  23 goals in doing this is trying to figure out a way to  24 increase the direct awards. I've been doing government  25 contracts for 35 years now. I know of one direct award,</p>	<p style="text-align: right;">44</p> <p>1 SBA's position, and others who are members of this body.  2 So, at this time, I would like to turn it over  3 to Ken Dodds for a description of what's ahead in  4 Mentor-Protege. And again, for those of you who are on  5 the phone who joined late, we are looking at  6 presentations, and you, too, if you write to us, via  7 email, and I will send them to you after the meeting.  8 The email address that you should write to is  9 veteransbusiness@SBA.gov, and that veterans is plural.  10 MR. DODDS: Thank you, Barb.  11 Let's go to the first slide. Congress created,  12 or we created a Mentor-Protege Program for 8(a)  13 businesses back in the late '90s. In 2010, Congress  14 gave us authority to create one for women-owned small  15 businesses, HUBZones and SDVOs. In 2013, they gave us  16 authority to create one for all small businesses. So,  17 we've been working on that.  18 We did a proposed rule, issued a final rule, and  19 it was effective August 24th, but we will not begin  20 accepting applications until October 1. We're trying to  21 do this electronically. I'm getting information every  22 hour about how that's going. It looks like it will be  23 definitely available October 1, but some parts of the  24 electronic application will not be available until  25 November 1, and so we may have to adjust or accept paper</p>

45

1 applications, thing like that.  
 2 So, small businesses out there need to check our  
 3 website, you know, periodically to see how it's going.  
 4 You know, they're working on it every day, as we go  
 5 along, to try to get it up and running.  
 6 Some of the things that we've kind of clarified  
 7 in this rule are, you know, joint venture agreement must  
 8 be in writing. A joint venture cannot be populated.  
 9 Under our prior rules you could have employees that are  
 10 just employees of the joint venture, but it was  
 11 difficult for us to tell whether the protege was  
 12 actually doing any of the work or benefitting, so under  
 13 this new rule, the joint venture may not be populated.  
 14 We did clarify in this rule that our setaside  
 15 programs are available outside the U.S. There's some --  
 16 you know, the way the FAR is written right now, some  
 17 agencies interpret that as they can't do setaside  
 18 outside the U.S. We've always taken the position that  
 19 they have the discretion to do it, if they choose to do  
 20 so, and if it's in the best interest of the Government,  
 21 that kind of language. And I know that there's a FAR  
 22 case that's been opened to kind of address this as well.  
 23 We are going to require under this, just like we  
 24 do in 8(a), you're going to have to, as a joint venture,  
 25 certify to us that you are going to meet the performance

46

1 requirement and then report to us on how you're meeting  
 2 those performance requirements.  
 3 Go to the next slide. Because of the way SAM  
 4 has been developed to help the Government make sure that  
 5 payments are basically paid to the right parties, you're  
 6 going to have to, as a joint venture, be an entity in  
 7 SAM in order to participate in the Mentor-Protege  
 8 Program. Because we've had issues in the past where the  
 9 agency didn't know who to pay because the entity wasn't  
 10 there. They didn't want to pay the mentor, they didn't  
 11 want to pay the protege, and that's not really the  
 12 entity, that's the contractor. So, that's a requirement  
 13 now under this rule.  
 14 Mentor-Protege agreements will be approved by  
 15 the Office of Business Development, which is the same  
 16 office that currently reviews 8(a).  
 17 We have, you know, basically clarified that a  
 18 mentor can have up to three proteges at a time. A  
 19 protege can qualify as small, basically under their  
 20 NAICS, or secondary NAICS, if that's an area we do  
 21 business in. And then, a protege can have up to two  
 22 mentors in the existence. So, it could be two in the  
 23 8(a) Program, it could be one in the 8(a), one  
 24 all-small. It's up to the firm to decide, but it's a  
 25 limit of two throughout their life. At that point, you

47

1 should be developed enough to compete on your own  
 2 without a mentor.  
 3 Next slide. We are not going to be doing a  
 4 full-blown verification of your size or socioeconomic  
 5 status. Of course, your size and socioeconomic status  
 6 of the protege could be protested if you win a contract.  
 7 Now, we, of course, have the discretion if we  
 8 think it's questionable whether you're really small or  
 9 really HUBZone or whatever, we can always do that, but  
 10 we're not going to do that in all cases.  
 11 We allow the relationship to be transferred.  
 12 We've had issues in the past where a company, a mentor  
 13 is bought, and, you know, we -- it was unclear whether  
 14 the new -- the buyer was now the mentor and how that  
 15 works. So, we clarified that that's allowed.  
 16 And you can also, if you're in the 8(a) Program,  
 17 you can, you know, basically transition out, and  
 18 continue the relationship as an all-small  
 19 Mentor-Protege. So, if you get your Mentor-Protege  
 20 agreement, maybe in year six in the 8(a) Program, you  
 21 will be able to continue it later outside the 8(a)  
 22 Program.  
 23 We did clarify in this rule that the project  
 24 manager cannot be a former employee of the mentor, and  
 25 that's a question that we've been getting a lot. We've

48

1 got a lot of issues with that, but that's what the rule  
 2 says right now.  
 3 Let's go to the next slide. As I said before, I  
 4 think it's a three-year relationship, and we can extend  
 5 it up to three years. Also, we're going to annually  
 6 review to see whether the protege is actually getting  
 7 the benefits that the mentor outlined in the agreement  
 8 that they are going to provide the protege, make sure  
 9 the protege is actually performing the required amount  
 10 of work.  
 11 So, it is a -- it's a three-year with a  
 12 three-year extension, but every year we're going to  
 13 review it, and we may decide to not allow the  
 14 relationship to continue if the benefits aren't being  
 15 done properly.  
 16 We did clarify in this rule that the past  
 17 performance and experience of the members of the joint  
 18 venture should be considered by the CO. We've had  
 19 situations where the agency wrote the solicitation in  
 20 such a way that they only wanted to consider the past  
 21 performance or experience of the joint venture entity  
 22 itself and not the members that are actually going to be  
 23 performing, even though the members are the ones who  
 24 are, you know, going to do the performing and had all  
 25 the past performance and experience.

<p style="text-align: right;">49</p> <p>1 And this was supported, actually, by 2 legislation, after we proposed the rule, there was 3 legislation I think in the NDA of 2016 that kind of said 4 this.</p> <p>5 And then one of the key things is that at the 6 conclusion of the relationship, we're going to require 7 you to report to us on whether you benefited and how you 8 benefited, because we've been getting, you know, 9 questions from GAO to let us -- you know, what is the 10 benefit of the Mentor-Protege Program, and it's 11 difficult for us to say at this point because we don't 12 have information and data. So, that's one of the new 13 things that we're going to require of all participants.</p> <p>14 Same performance requirements, you know, you 15 have to do, as a protege, 40 percent of the work that 16 you're collectively doing as a Mentor-Protege joint 17 venture, and that's at any level. You didn't try to 18 become a -- you know, a mentor can't be a third-tier 19 subcontractor and somehow perform more, it's 40 percent 20 of all that's done in the aggregate.</p> <p>21 We changed the HUBZone joint venture rules to 22 make that program like other programs and allow a 23 HUBZone to joint venture with another small business. 24 Up until now, their rules required the HUBZone joint 25 venture to both be HUBZones. And there is a way to</p>	<p style="text-align: right;">51</p> <p>1 slide. Okay, so there's a citation to the rule. It was 2 effective August 24th. Again, October 1 is when we're 3 going to start with this all-small Mentor-Protege 4 Program that applies to all small businesses.</p> <p>5 And the next slide is the other rule -- no, 6 that's not it. Okay, so for other Mentor-Protege 7 programs under this, the law, we have to review them. 8 So, other than DoD, if an agency, like GSA or DHS or 9 whatever, they have their own Mentor-Protege Program, 10 they have to come to us within one year of August 24th, 11 so that would be August of 2017, and kind of tell us why 12 their program should continue, and then we have to make 13 a decision about their continuing.</p> <p>14 And now, the next slide, I think is the other 15 rule I wanted to mention. It was a direct final rule, 16 it's effective October 3rd, it's an implementation of 17 the NDA of 2016, and it basically changes the 18 eligibility for HUBZone. It expands the base closure 19 area to areas that are connected to the base, not just 20 the base, basically. It allows, if there's a declared 21 disaster for firms to qualify as HUBZone, and then it 22 also now allows native Hawaiian organizations to own a 23 HUBZone concern.</p> <p>24 And I think the next slide is just my contact 25 information. So, are there any questions about</p>
<p style="text-align: right;">50</p> <p>1 request a reconsideration if you're denied. 2 Go to the next slide. If a mentor doesn't 3 provide the required assistance, there's a lot of levels 4 that we can apply, you know, from termination of the 5 agreement to not allowing the mentor to ever -- to act 6 as a mentor for two years, all the way to debarment, if 7 we think that's appropriate.</p> <p>8 Next slide. Just to be clear, the size, even if 9 you've been approved as an 8(a), a joint venture by the 10 district office BOS, your size can still be protested. 11 And, so, in a formal size determination, they may find 12 that your joint venture agreement was not appropriate.</p> <p>13 For all mentor -- for the all-small 14 Mentor-Protege Program, we're not reviewing the joint 15 venture agreement, so that's not going to apply to you. 16 That, of course, can still be protested, so you have to 17 make sure that your joint venture agreement tracks what 18 our regs require specifically, and all the items in 19 there.</p> <p>20 There's a lot of other stuff around 8(a) in this 21 rule that I'm not going to go over, but they're in the 22 slides. Let's go to the next slide. A lot of this has 23 to do with entity-owned concerns. Again, I don't think 24 that's really important for this body. 25 Let's go to the next. Let's go to the next</p>	<p style="text-align: right;">52</p> <p>1 Mentor-Protege before I turn it over to Sam? Yes, sir? 2 MR. KLINGELHOFER: One of the points in the 3 Mentor-Protege and basically joint ventures has been a 4 whole matter of discussion at my office for several 5 years now. What is the legal form that a Mentor-Protege 6 or any joint venture, frankly, must establish to meet 7 your requirements? You know, a partnership is a legal 8 entity of itself, an LLC is a legal entity of itself. 9 Should all Mentor-Protege joint ventures be LLCs? 10 Should they be incorporated? You know, it is really 11 unclear as to what the SBA requires for -- with regard 12 to the status of the entity for approval.</p> <p>13 MR. DODDS: I mean, from what I've seen, it's 14 usually an LLC. We kind of left that open, but it is 15 a -- it still has to be for a limited purpose, right? A 16 joint venture, usually in the common law, was to do one 17 contract. We created this exception that allows you to 18 go after up to three, you know, get three contract 19 awards in a two-year period to try to ease the burden of 20 having to do a new joint venture agreement every time 21 you did an offer.</p> <p>22 So, we were trying to help there, but then it's 23 more of an ongoing entity, but it still can't be 24 perpetual, because then that's no longer a joint 25 venture, that's more of an ongoing business affiliation.</p>

53

1 So, I think as long as you -- I don't know, Sam is here  
2 from the Office of General Counsel, but as long as  
3 there's evidence in your organization documents that  
4 it's for a limited purpose, that it's a joint venture, I  
5 think it could take an LLC, a corporation or any type of  
6 form. I don't think we've taken the position that it --  
7 anything is out of bounds.

8 MR. KLINGELHOFER: Okay.

9 MS. CARSON: Ken, it's Barb, SBA.

10 There was lively discussion last evening at a  
11 veteran organization centered around Federal  
12 procurement, that's why they organized. A number of  
13 them are on the line, so I am going to turn it to them  
14 in a second, but VA did speak at this event, and  
15 mentioned that there was some risk to -- and said that  
16 they have been coordinating with SBA on CBE  
17 certification and the potential to lose it through some  
18 of the provisions of the Mentor-Protege Program.

19 And I'll also ask at this time, Dave Thomas or  
20 Tom Leney, if either of you are on the line at the  
21 moment, if you could reframe the question as I  
22 understood it. So, I will pause for a second and see if  
23 they are on line.

24 (No response.)

25 MS. CARSON: Okay, if they join us later, and if

54

1 it doesn't sound familiar, then I'll follow up in  
2 writing and share that with those who are attending.

3 MR. DODDS: Yeah, definitely let me know. I met  
4 with --

5 MR. DENNISON: Hey, Barb? Barb, this is Scott  
6 Dennison with National Veterans Small Business  
7 Coalition.

8 MS. CARSON: Go ahead.

9 MR. DENNISON: Yeah, thank you.

10 Yeah, the issue -- the reason I raised it last  
11 night was yesterday morning I had the opportunity to go  
12 to a training program on the Mentor-Protege Program that  
13 Blair Omaza [ph.] did, and John Klein from SBA spoke,  
14 and one of the issues from a veteran perspective is that  
15 the new Mentor-Protege Program allows for the small  
16 business to give up to 40 percent interest in its firm  
17 to the mentor.

18 And my concern was that if you are a verified by  
19 VA veteran or service-disabled vet and you give up 40  
20 percent of your company, that will probably put your VA  
21 verification in jeopardy. So that the issue is that we,  
22 from a veteran perspective, we have set of rules for  
23 SBA, and for the VA. So, if, in fact, the  
24 service-disabled veteran or veteran-owned business is  
25 going to get into the SBA mentorship program, the

55

1 recommendation is they need to sit down with VA and make  
2 sure that whatever they plan does not impact negatively  
3 their VA verification.

4 MR. DODDS: Yeah, and I think, you know, I think  
5 the VA's rules are similar to ours and they require 51  
6 percent ownership by service-disabled veterans, which  
7 means a large business could own up to 40 percent of the  
8 firm. Where you get into trouble is where it's just not  
9 ownership, but you add all these controls along with  
10 your purchase, I get to say this to this and this to  
11 that and I have to have approval of this and that.  
12 That's when the control will be a problem and you might  
13 be found to be ineligible.

14 There are some minority shareholder protections  
15 that are, you know, based on state law that we've said  
16 in the past in cases are okay, but a lot of the things  
17 we see go far beyond those state law protections, and  
18 that's where you could be found to be ineligible. It's  
19 not the ownership, really, it's the control that you  
20 write into those agreements that may jeopardize your  
21 ability.

22 MR. DENNISON: You're right. Absolutely. Thank  
23 you for the correction.

24 MS. CARSON: Are there any questions in the room  
25 before we move to the phones on Mentor-Protege Program,

56

1 before we move to Kingdomware?

2 (No response.)

3 MS. CARSON: Okay, none in the room. Anyone on  
4 the phone have any questions for Mr. Dodds on  
5 Mentor-Protege?

6 (No response.)

7 MS. CARSON: I'm pleased to introduce Sam Le,  
8 who represents Small Business Administration's Office of  
9 General Counsel and will address Kingdomware impact.

10 MR. LE: Thanks very much, Barb.

11 I'm with the SBA's Office of General Counsel,  
12 and I had the pleasure in February of attending the oral  
13 argument at the Supreme Court for the Kingdomware  
14 Technologies v. United States case. This is one of the  
15 first and possibly only pure Federal Government  
16 contracting cases that has reached the Supreme Court.

17 Just to fill you in on what the court was like  
18 that day, it was actually the first argument at the  
19 Court after Justice Scalia had died, so there was a  
20 somber mood at the Court, and Chief Justice Roberts said  
21 a few words to remember Justice Scalia. I think the  
22 ceremony for Justice Scalia was either the weekend  
23 before or the weekend after. And there were also some  
24 attorneys that were sworn into the Supreme Court that  
25 day, a lot from Utah.

57

1 You might have seen a case that came out of the  
2 Supreme Court earlier this year about search and seizure  
3 rights, where Justice Sotomayor wrote a very long  
4 dissent getting into some of the things that have  
5 happened across the country, but particularly in  
6 Ferguson, Missouri. That case was heard that day as  
7 well. So, that was a very busy day at the Court.

8 You probably already know the outcome of the  
9 Kingdomware case. The Government and the Department of  
10 Veterans Affairs lost the case, unanimously. The  
11 Supreme Court found unanimously, and without Justice  
12 Scalia, so being eight to nothing, that the Veterans  
13 Benefits Act of 2006 requires the setaside of Federal  
14 supply schedule orders for veteran-owned small  
15 businesses issued by the Department of Veterans Affairs  
16 where the rule of two is satisfied.

17 The rule of two is the contracting principle  
18 that where the agency finds that two or more of the  
19 particular categories, in this case, veteran-owned small  
20 businesses, are available, responsible, and able to  
21 perform the requirement at a fair and reasonable price,  
22 then the agency must set that contract or in this case  
23 that order, aside for that category. So, in this case,  
24 it's VOSBs.

25 There are two important legal conclusions that

58

1 the court came to in the Kingdomware decision. The  
2 first addressed the argument that was raised by the VA  
3 and that actually won at the lower court, which was the  
4 Court of Federal Claims, and at the appeals court, which  
5 was the Court of Appeals for the Federal Circuit. So,  
6 if you're keeping track, the VA won twice before getting  
7 to the Supreme Court, but then lost unanimously at the  
8 Supreme Court.

9 But in the first two cases, the VA had argued  
10 that the structure of the Veterans Benefits Act of 2016  
11 relieved the VA from the requirement to set aside those  
12 Federal supply schedule orders, where the VA had met the  
13 contracting goals. The statute stated roughly that for  
14 the purposes of meeting the goals, the VA shall set  
15 aside contracts for veteran-owned small businesses where  
16 the rule of two is satisfied.

17 And the VA argued successfully at those two  
18 courts that the purposes portion of that statute was a  
19 prerequisite to setting aside the contracts, and  
20 therefore the VA had been meeting its goals, and the VA  
21 argued that it had been meeting its goals, then the VA  
22 was relieved from the setaside responsibility.

23 The Supreme Court rejected that argument. The  
24 Supreme Court relied on earlier cases, and including  
25 some cases interestingly involving the second amendment,

59

1 to find that that purposes clause was not a  
2 prerequisite, that it was a statement of intent by  
3 Congress, and a statement of expectation that the VA  
4 would meet the goals, but it did not create a legal  
5 prerequisite to the setaside requirement, and therefore,  
6 regardless of whether the VA had met the contracting  
7 goals, the VA still was required under the statute to  
8 set aside a contract for small businesses.

9 The second issue came up at the first time  
10 before the Supreme Court, and you can tell from the  
11 decision issued by justice Thomas that the justices were  
12 not particularly pleased with the Government for raising  
13 a new argument at this point probably three years into  
14 the litigation.

15 The Government argued, for the first time before  
16 the Supreme Court, that the term "contract" in the  
17 Veterans Benefits Act of 2006 did not encompass Federal  
18 supply schedule orders. You may have heard of the GSA  
19 schedule or multiple award schedule. All these terms  
20 refer to the same thing, GSA schedule, multiple award  
21 schedule, Federal supply schedule.

22 The Government argued that when Congress used  
23 the term "contracts" in the statute, stating that the VA  
24 shall set aside contracts for veteran-owned small  
25 businesses, Congress did not intend to include in that

60

1 term orders that are issued under multiple award  
2 contracts such as the GSA schedule.

3 The Government relied in part on previous  
4 interpretations of the Small Business Act, and that's  
5 really the reason that I was there that day. SBA has in  
6 the statute multiple setasides, as you know, for  
7 service-disabled veteran-owned small businesses, HUBZone  
8 businesses, 8(a) concerns. The one that the Government  
9 focused in on was Section 15(j) of the Small Business  
10 Act, which states that the agency shall set aside a  
11 contract for small businesses at the dollar level  
12 between \$3,500 and \$150,000, so long as the rule of two  
13 is satisfied.

14 And the Government had argued that the FAR when  
15 it interpreted this Section 15(j) setaside, and in  
16 previous cases, this setaside had been found not to  
17 apply to Federal supply schedule orders.

18 The Government also argued that orders are  
19 understood in Federal contracting to be separate and  
20 distinct from what might be called a new contract. For  
21 example, when an agency goes out on FedBizOpps and says  
22 that it has a new requirement and opens it up to either  
23 full and open or a subset of that. That's considered a  
24 new contract, whereas when an agency issues an order, it  
25 goes only to businesses that have an existing contract



<p style="text-align: right;">61</p> <p>1 with the GSA schedule.  2 The Supreme Court rejected that second argument  3 as well, first stating, and I think criticizing the  4 Government for bringing up this argument for the first  5 time before the Supreme Court, but also finding that the  6 term "contract," both in its dictionary definition, and  7 in its FAR definition, includes orders that are issued  8 off of the GSA schedule.  9 The Court found, also, that an order on the GSA  10 schedule has the same structure as a contract in that  11 it's an agreement between two parties that has a price  12 that is negotiated. It may have terms and conditions  13 that are not already part of the GSA schedule contract.  14 The Supreme Court did not say specifically how  15 the VA would implement this new interpretation of  16 contracts also including orders, but I think the Supreme  17 Court made it clear that there's no exception in the  18 Veterans Benefits Act of 2006 that allows the Department  19 of Veterans Affairs to avoid setting aside GSA schedule  20 orders for veteran-owned small businesses, provided that  21 the rule of two is satisfied.  22 There was one more finding on that second point,  23 which is that the Government had also argued that GSA  24 schedule orders are often small dollar values,  25 specifically the Government said they're often under the</p>	<p style="text-align: right;">63</p> <p>1 policy memo with a very nice flow chart. The memo is  2 fairly long, but there's an easy-to-flow chart that goes  3 along with it that's available on the VA website that  4 you can find.  5 And that policy, the way that I read it, and  6 again, I'm not with the VA, but the way that I read it,  7 I think the two big elements of that are first the VA is  8 going to refer service-disabled veteran-owned small  9 businesses over veteran-owned small businesses. So,  10 they will look at SDVOSB where going to VOSB. I think  11 that's always been part of their policy.  12 And then the second part of it is that the VA is  13 still going to try to do setasides using the schedule  14 before going outside of the schedule, where it makes  15 sense to use the schedule.  16 So, if the market research shows that this  17 requirement can be offered on the schedule, the VA looks  18 like it's going to look at that schedule, see if they're  19 verified SDVOSBs, or verified VOSBs, on that schedule,  20 and potentially issue a setaside on that schedule before  21 going outside of the schedule.  22 From a looking forward standpoint, I think there  23 are further potentials for litigation that come out of  24 this Kingdomware decision, both as it applies to the VA,  25 and as it might apply outside of the VA. So, within the</p>
<p style="text-align: right;">62</p> <p>1 \$150,000 simplified acquisition threshold. And the  2 Court rejected that argument and criticized it based on  3 the facts of Kingdomware itself. In Kingdomware, the VA  4 had procured an IT system, it was an emergency alert  5 system, and the Court found, based on that, and some  6 other elements of the record, that the VA was using the  7 GSA schedule for not just small dollar orders, but for  8 much larger orders as well. And even if the VA were  9 using the GSA schedule for small orders, the Court said  10 that the GSA schedule has an abbreviated process for  11 orders under the simplified acquisition threshold.  12 So, really, it was not much more of a burden on  13 the VA to set aside under the GSA schedule under the  14 simplified acquisition threshold.  15 So, that decision was issued in June. Now, I'm  16 with the SBA, so I can't really get into everything that  17 the VA has done, but one thing I did do was I attended a  18 Senate hearing that was held shortly after the decision  19 was issued, representatives from the VA, Tom Leney was  20 there, and there were representatives from veteran-owned  21 small businesses that attended as well.  22 The VA and SBA also testified at that hearing.  23 The VA and SBA were asked what their reactions to the  24 decision were, and what the implications of the decision  25 were. Shortly after that hearing, the VA issued its</p>	<p style="text-align: right;">64</p> <p>1 VA, you'll probably see cases that are brought, and I  2 know of one case already that's been brought in the  3 Court of Federal Claims, to test how far this mandatory  4 setaside goes.  5 We know now from the Supreme Court that the  6 setaside applies to the GSA schedule. Then the further  7 questions are does this setaside have preference over  8 other contracting priorities? For example, AbilityOne,  9 does the setaside require that the VA look at VOSBs and  10 SDVOSBs before considering AbilityOne?  11 There is also a case that was brought at GAO  12 last year about the non-manufacture rule applying to  13 this setaside. So, you'll probably see some litigation  14 over what circumstances go into that rule of two  15 determination. Whether the VA is properly applying,  16 say, limitations on subcontracting, particularly for  17 service contracts, or service orders, and the  18 nonrecovery rule for supply contracts and orders.  19 Then you may see some discussion or litigation  20 brought about what implications the Kingdomware case has  21 outside of the VA. Because remember, the Supreme Court,  22 when it was looking at the issue of whether the order is  23 a contract, turned to the dictionary, and turned to the  24 FAR. So, those are not elements that are particular to  25 the VA, those would apply outside of the VA as well. I</p>

65

1 mean, all you have to do is pick up a dictionary and see  
2 what a contract is.

3 In that regard, GSA issued a memorandum to the  
4 acquisition officers in mid-July stating that its policy  
5 on setasides outside of the VA was to run unchanged.  
6 SBA, for their part, had a case before GAO just very  
7 shortly before Kingdomware was heard about whether the  
8 set aside in Section 15(j) of the Small Business Act  
9 applied to GSA schedule orders between \$3,500 and  
10 \$150,000, that threshold in the statute.

11 GAO found in that case that the mandatory set  
12 aside in 15(j) did not apply to GSA schedule orders.  
13 Now, we think that it did, we think that GAO was wrong  
14 on this and we argued that 15(j) should apply to orders  
15 between \$3,500 and \$150,000, and there may be  
16 opportunities to relook at that and to discuss that now  
17 that Kingdomware has been issued.

18 Certainly GSA has come down and said that it  
19 degrees with the decision by GAO in that case, which was  
20 Aldevra, you can probably find it on GAO's website, but  
21 that issue may come up again.

22 You'll probably also see some discussion about  
23 what implications that order has or contracts  
24 distinctions has in other areas of Federal contracting.  
25 The Federal Government has -- at least the OMB has

66

1 issued several policies concerning management and  
2 strategic sourcing.

3 There was also discussion at the runup to the  
4 Supreme Court hearing about other areas in Federal  
5 procurement law that use the term "contracts." I think  
6 there's something in the sealed bidding rules about how  
7 you're supposed to prefer sealed bidding for contracts  
8 and the question will be whether the Kingdomware  
9 decision, which defines a contract as including an  
10 order, might change the way that the Federal Government  
11 applies some of these other external sources of law.

12 Other than that, you know, I don't think  
13 there's -- I don't think there's much more than, you  
14 know, seeing what happens out of litigation and seeing  
15 what happens with particular contract awards. I don't  
16 know other than this Court of Federal Claims case what  
17 active litigation is out there on this issue, but I  
18 think the fact that the Supreme Court took the case, and  
19 it doesn't always need to take cases, as you probably  
20 know.

21 The fact that the Supreme Court took this case  
22 and came down so strongly against the Government  
23 suggests that there is a lot to be determined on what  
24 the implications of Kingdomware are.

25 MS. CARSON: Thank you so much, Sam, for the

67

1 presentation. I'm going to turn in the room and see if  
2 there are questions here before we go on the line.

3 MR. WESLEY: So, I'm not sure if you were here  
4 at the last meeting, but when my team came back that was  
5 here at the last one, they came back with some messages  
6 for me, so I want to clarify. One was I think you  
7 touched on it a little bit, but I just want to be very  
8 clear. When it comes to how the SBA is interpreting the  
9 Kingdomware decision so far, that's the key, so far, is  
10 that the things that are in the statute that are  
11 vet-first provisions are only applying to the VA right  
12 now; however, when it comes down to the orders  
13 provision, versus contract, that could be why it's  
14 spread over the Federal Government. Is that what I'm  
15 hearing?

16 MR. LE: Well, to clarify, there's been no  
17 agency-wide statement of policy on what the Kingdomware  
18 case might do for Federal Government contracting or  
19 small business contracting as a whole. The only  
20 policies that I know of are the VA policy and the GSA  
21 policy.

22 What I was referring to was the legal position  
23 that SBA took before Kingdomware came out, before GAO.  
24 We said that we thought that that 15(j) setaside applied  
25 to orders between \$3,500 and \$150,000, but GAO rejected

68

1 that argument in the decision. So, I think that's part  
2 of the thing that remains to be seen as to whether, you  
3 know, SBA is going to follow in the footsteps of VA and  
4 GSA in issuing something about the implications of  
5 Kingdomware.

6 MR. WESLEY: And the reason I'm asking the  
7 question is because the small business jobs, and Ken and  
8 I had discussions a couple of years ago when I first  
9 came in the job, the Small Business Jobs Act of 2010, in  
10 my opinion, actually clarified this decision a long time  
11 ago.

12 So, how this even bubbled up, I don't know, but  
13 it says in the Jobs Act of 2010 that contracting  
14 officers may apply setasides to the GSA schedule. So,  
15 to me, at that point in time, that became clear. The  
16 only question I have is are we changing now because of  
17 the Kingdomware decision that "may" option to "shall"  
18 for regular setasides? Because I know, for example, the  
19 Department of Defense doesn't have a vet-first option.

20 So, I can't go -- even though I personally have  
21 been on record saying that I would love a vet-first  
22 option, not mandatory, but option, the -- and my boss  
23 has agreed with that, we would love to have that tool in  
24 the toolbox, it's just not there yet. But since we  
25 don't have that option right now, we do not -- we cannot

69

1 do a vet-first set aside, so we can do everything in  
2 parity per the SBA's previous ruling.

3 So, I just want to clarify that piece.

4 MR. DODDS: Yeah, and I think we do plan to  
5 issue guidance on what our position is. I understand  
6 your position. The opposite of that is that 15(r)  
7 applies to above \$150,000, and then 15(j) controls, you  
8 know, orders below \$150,000. That's kind of the  
9 argument that we'll be making.

10 But, you know, what we're going to try to tell  
11 agencies is that you do market research, and if you --  
12 if small business can do the work, then you use small  
13 business. You either do a contract, you do an order,  
14 you do an order under one of your contracts, you do an  
15 order under someone else's. It doesn't matter. You've  
16 done market research and if small business can do it,  
17 our guidance is going to be you should use small  
18 business.

19 MR. BLUM: Mathew Blum.

20 We had an interesting situation a number of  
21 years ago, actually in this administration, folks might  
22 remember in parity, and there was confusion because I  
23 think there was court action that -- a GAO opinion, I  
24 think it had to do with how the HUBZone setaside worked,  
25 and that the HUBZone preference would trump others, and

70

1 eventually that was fixed by Congress.

2 But in terms of process that Kenya was  
3 raising, the FAR counsel was also engaged, OMB was  
4 engaged, because ultimately, this needs to be clarified,  
5 or whatever clarification is needed needs to appear in  
6 the FAR, because that's what contracting officers are  
7 going to follow.

8 So, just to go back to the hearing that Sam was  
9 mentioning, Ken's boss, John Shoraka, testified that the  
10 SBA will be conferring with Justice, the Small Business,  
11 become an advisory counsel, GSA and the FAR counsel, to  
12 discuss this matter. And as you mentioned, and I think  
13 correct me if I'm wrong, but the Kingdomware decision  
14 was silent on the interpretation of the Small Business  
15 Act, right?

16 In other words, I know as you -- and please  
17 correct me, because all I know is the opinion, and the  
18 briefs I guess did speak to the interpretation of the  
19 Small Business Act, but the language on the face of the  
20 opinion I think only spoke to an interpretation of the  
21 VA statute.

22 So, an open question, and I'm not speaking, you  
23 know, for OMB's counsel's office and I'm not offering an  
24 opinion, but one question that is likely to be looked at  
25 by the FAR counsel attorneys with SBA attorneys and the

71

1 Department of Justice, is the fact that the Small  
2 Business Act, which actually has a separate provision --  
3 has two provisions dealing with setasides, right, one  
4 with contracts, which is 15(j), and one that deals  
5 specifically with orders, 15(r), right?

6 That's different from the statute that the  
7 Supreme Court was opining on, which only talked to  
8 contracts. And I thought the language said something to  
9 the effect of there's nothing in the statute that  
10 distinguishes between contracts and orders. That's the  
11 VA statute. Which is different from the -- from the  
12 Small Business Act.

13 MR. WESLEY: That was one of my questions.

14 MR. BLUM: Yes. So, I'm not offering opinion  
15 today, but that is just to give -- to flesh it out.  
16 That's the issue, an issue, that will be discussed to --  
17 and that needs to be addressed in order to understand  
18 the impact moving forward. As Ken mentioned, it sounds  
19 like SBA's view of how to rationalize all of this is to  
20 say that the language of 15(j) makes setasides mandatory  
21 under \$150,000, or under the simplified acquisition  
22 threshold. But that's a matter that needs to be further  
23 discussed.

24 MS. BULLARD-MARSHALL: This is Maggie. May I  
25 say something? Chairman?

72

1 MS. CARSON: Go ahead, Maggie. And this is  
2 Maggie from Aldevra.

3 MS. BULLARD-MARSHALL: Thank you.

4 So, I know there's all this talk about 15(j) and  
5 (r), and whatever else, but just to kind of simplify  
6 this. At DoD, they needed to buy an ice machine. The  
7 contracting officer was asked, aren't there two or more  
8 small businesses who can sell you an ice machine? I  
9 don't care, I don't have to go small business, I'm using  
10 GSA instead of.

11 Well, wait a second, I thought there's an act  
12 that said shall exclusively reserve opportunities for  
13 small business if it's under \$150,000. So, that's  
14 really what it's coming down to is, exactly what was  
15 said earlier, why wasn't the contracting officer looking  
16 to see if there were small businesses who could sell DoD  
17 an ice machine before going to GSA?

18 And further, if the contracting officer wanted  
19 to buy ice machines using GSA, he still could have.  
20 There are still two or more small businesses that were  
21 selling ice machines on GSA, he just refused. And this  
22 is part of a bigger issue that between \$3,500 and  
23 \$150,000 is supposed to be exclusively reserved for  
24 small business concerns, and what we're seeing is within  
25 that dollar value, about 40 percent of those

73

1 opportunities are going to large business.  
2 Now, of course, that could mean a number of  
3 things, the number of small businesses available to do  
4 it, et cetera, et cetera. But contracting officers are  
5 being taught, use FSA, then you don't have to go small  
6 business right now.

7 Thank you for your time.

8 MR. WESLEY: So, this is Kenyata at DoD. Since  
9 you used me as an example, I'm going to go ahead and  
10 just clarify something, all right?

11 So, there's a couple of things that we need to  
12 really think through when we use examples, because I  
13 think that we need to be fully transparent with them.  
14 With the examples you use, there are certainly rules  
15 that kick in with non-manufacturing, and so forth, when  
16 it's also distribution. This is a difference between  
17 manufacturing and selling an ice machine.

18 And, so, when the CO sat down to do a review,  
19 there were no small business manufacturers of the ice  
20 machine which were small business distributors of ice  
21 machines. That's a very different discussion.

22 Two, the law actually in the way the FAR reads  
23 does not designate that all small business under the  
24 simplified act possession threshold go to small  
25 business, and it gives contracting officer discretion,

74

1 and people often seem to forget that. So, I'm not  
2 arguing that they should do market research or not do  
3 market research, I'm always of the position that market  
4 research rules. But we need to make sure that when  
5 we're telling our stories and we use examples, that we  
6 tell the full story and cite the regulations as they are  
7 written, not part of the regulations, because that is  
8 what leads to confuse people on the outside that aren't  
9 necessarily experts in the procurement system.

10 I don't -- this is not to contradict the young  
11 lady on the phone, this is just she used us as an as an  
12 example and I wanted to clarify the rules and the way  
13 they were applied.

14 Now --

15 MS. BULLARD-MARSHALL: And there's no class  
16 waiver for ice machines, just FYI.

17 MR. WESLEY: So, when you sit down to have the  
18 discussion, it just needs to be fully vetted and we need  
19 to make sure that we clear up and tell the story the way  
20 in the full complexity, not just partway. That's my  
21 only comment.

22 MS. BULLARD-MARSHALL: Yeah, I'm sure there's  
23 not time at this meeting to get into all the details,  
24 and it sounds like it's way above my head and that of  
25 many others to determine what will happen next, as the

75

1 gentleman from OMB indicated. So, stay tuned.

2 MS. CARSON: Thanks, Maggie. This is Barb, SBA.

3 We will -- and if there's anyone else on the  
4 line who has a question, we probably have about three  
5 more minutes to spend on this. We have a really  
6 ambitious schedule to get through the recommendations of  
7 the Interagency Task Force and retooling those. I do  
8 want to respect the rights of the members of the public  
9 to get on record, but I don't want you to think that's  
10 your only venue. You are welcome to send in a question,  
11 and I can provide it to the members and we can provide a  
12 response at our next meeting so that we maintain our  
13 transparency, but we will run out of time.

14 And again, on the email, I'm going to say it  
15 again, veteransbusiness@SBA.gov. One last question on  
16 impact of Kingdomware.

17 (No response.)

18 MS. CARSON: Okay. Thanks for participating,  
19 and I thank my colleagues from SBA for joining us for  
20 this portion.

21 We're going to return to the recommendations of  
22 the Interagency Task Force and the way forward. We  
23 have -- I'm going to give you an idea of what's ahead.  
24 We have one hour left and we have three bodies of work  
25 to go through, and they are to improve and expand

76

1 assistance, the next is to reduce barriers to growth and  
2 improve coordination, and the final is research and  
3 policy.

4 We have lost a few members for just a moment,  
5 but I believe these next two recommendations, and they  
6 will return, but these next two recommendations I  
7 believe are fairly clear-cut, and but we will get your  
8 feedback on those.

9 The first is under Improve and Expand  
10 Assistance, to ease navigation and create or leverage an  
11 existing web portal that allows veterans to access  
12 entrepreneurship resources from across government. The  
13 recommendation for this was to close it or to pivot it  
14 to something that is relevant, because at least part of  
15 this recommendation was addressed by the creation of  
16 businessUSA.gov and other resources. The recommended  
17 pivot was conduct outreach and training and identify new  
18 opportunities for mapping the landscape of state and  
19 Federal programs.

20 Are there any comments on the proposed change?

21 (No response.)

22 MS. CARSON: We will accept this one as written.

23 The next is a new recommendation, and it's  
24 coming from the Department of Labor, I will read it.  
25 Add to the curricula used in Boots to Business reboot

77

1 and other veteran entrepreneurship training programs  
2 that teaches and encourages participants to familiarize  
3 themselves with the public workforce system known as  
4 AJCs, and others, to use them as their human resources  
5 support for staffing.

6 I'll turn it to you, Mr. Metheny.

7 MR. METHENY: Okay, thank you. So, the idea  
8 here is as we continue to get information out to veteran  
9 entrepreneurs, I know yesterday's advisory committee  
10 talked about marketing and business development.  
11 Another piece of this is the human resources size of  
12 hiring as they grow, and so a great opportunity to find  
13 and hire employees, particularly veterans, would be  
14 through the job centers that are part of the public  
15 workforce system. There are almost 2,500 of them around  
16 the country that can help link up these business owners  
17 who are now employers with potential employees.

18 So, the idea behind this is to add a bit of  
19 language and information in the different curricula that  
20 teach veteran entrepreneurs about this resource that's  
21 available to them, as they grow.

22 MS. CARSON: Anything else?

23 MR. METHENY: And to get to your point of  
24 specificity, I think what we -- and I don't want to sign  
25 up the SBA since I don't own the curriculum for these,

78

1 but I think by our next meeting, we could have some  
2 draft language to update a curricula for each of the  
3 programs.

4 MS. CARSON: This is Barb at SBA.

5 That's a reasonable goal. We are on a cycle on  
6 some of those programs either by grant or an interagency  
7 effort, where there's a set cycle on when we may change  
8 curricula, but we do agree and are already supporting  
9 getting the word out on this resource.

10 We find it valuable not just in our  
11 entrepreneurship development programs, but would  
12 encourage member agencies that this is something that  
13 you would discuss. As people are winning contracts with  
14 you, they are going to need to staff them well, and we  
15 may have a good resource in the agencies and we would  
16 like to reinforce that.

17 So, I believe the consensus is that we will  
18 accept this.

19 MR. WESLEY: Just one add, it may be beneficial  
20 to make sure the PTACs are aware of this. So, as they  
21 are helping companies, and not just the PTACs, but the  
22 SDVCs are aware of this as a resource, because as  
23 they're helping small businesses win contracts and  
24 service-disabled vet companies win contracts, they will  
25 be able to help them staff up by using this as a

79

1 potential source. Just FYI.

2 MR. HEILMAN: So, we can change the language,  
3 this is Craig at SBA, and for this last component of it,  
4 veteran entrepreneurship training programs such as  
5 available through procurement technical assistance  
6 centers, and other SBA partners, of which small business  
7 development centers would be included.

8 MR. METHENY: And this is Bill Metheny from DoL,  
9 that's -- and then lead agencies, I suspect, would be  
10 SBA, DoL, DoD on it, or no?

11 MS. CARSON: Yes, as a minimum.

12 MR. METHENY: Okay.

13 MS. CARSON: Is a representative from GSA is on  
14 the line? Do you feel that you have any particular  
15 contribution in that, Jerome?

16 (No response.)

17 MS. CARSON: Okay, we will keep it with us, the  
18 three of us. Thank you. And we will modify that.

19 We're moving on to the third body of work, which  
20 is reduce barriers to growth and improve coordination.  
21 This recommendation will stay as it was stated, which is  
22 find and reduce barriers that impede service-disabled  
23 veteran-owned small businesses from contracting with the  
24 U.S. Government. I would like to see more specificity  
25 in that, because it's really hard to report on and it

80

1 will never be closed the way that it's written, and  
2 perhaps that's the intent, but it would be really nice  
3 to be able to measure our successes there to  
4 Mr. Wesley's point earlier.

5 So, unless there's a solution in mind, and at  
6 hand, we will continue this one as written, but we will  
7 look at the end of next fiscal year to find a way to  
8 measure this in a more meaningful way.

9 MR. WESLEY: Do we even have a baseline on where  
10 we are with it? Because you can't measure growth or  
11 success without knowing a baseline. Do we have a  
12 baseline?

13 MS. CARSON: We have a baseline of perceived  
14 problems, but they are not all -- are barriers. And if  
15 I can just spend one second on that, that's a great  
16 question. Access to capital, the business development  
17 opportunities would be two, the current structure of  
18 contracting officers perhaps being perceived as having a  
19 lot of risk in using the programs that are available to  
20 them, for example, sole source.

21 MR. WESLEY: So, I think maybe if you want to  
22 have a measurable outcome, maybe we should just, first  
23 we have to say where we are. So, when we say -- you've  
24 mentioned contracting officers not using sole source  
25 provisions for service-disabled vets that exist. If we

<p style="text-align: right;">81</p> <p>1 find out where we are, today, then we can set a 2 percentage rate that we are trying to increase for and 3 what we're doing to work towards those increases. 4 Then we start talking about increased to new 5 technologies. Well, you know, Department of Defense is 6 driving hard in that area right now, where we set up 7 organizations like DIUx and increase the utilization of 8 SBIR, rapid innovation funds. All of those things 9 within the Department of Defense, but what we did is we 10 figured out where we were, and then went to start 11 pushing for a percentage of improvement. 12 I think if you're trying to do that in here, 13 first establish what the baseline is, then go after an 14 increase of some kind to show that we're heading in the 15 right direction. 16 MR. HEILMAN: Craig at SBA. I mean, I would 17 just add to Barb's comments that our baseline is 18 certainly our scorecard in terms of what utilization is 19 today, but the stakeholders tell us that we can do more, 20 and the business development discussion has been, you 21 know, the main driver of that. 22 I think this could tie back to what we decided 23 on 1.4 where we were going to conduct an analysis of the 24 pros and cons for a new business development program, 25 and in so doing that research could include trying to</p>	<p style="text-align: right;">83</p> <p>1 go back and we'll double check to see if it's in that 2 study. If it's in that one, the answer is no, but if 3 it's in one that was previously completed, then yes, I 4 don't mind sharing. 5 MS. BULLARD-MARSHALL: Great. I think that 6 would be a great resource for the committee. 7 MS. CARSON: The proposal is that this would be 8 no longer a stand-alone recommendation, it will become a 9 part of 1.4, which we discussed earlier, the BVA 10 remember recommendation. Is that acceptable? And 11 again, the wording will be provided to you members in 12 the draft fiscal '16 report for your comment. 13 MR. KLINGELHOFER: This is Victor Klingelhofer. 14 So, you're proposing that 1.4 be amended again to read 15 conduct an analysis of the benefits? I'm trying to 16 remember exactly where we were. Benefits and drawbacks 17 relating to possible creation of a development program 18 for economically disadvantaged SDVO SBCs modeled on the 19 SBA's 8(a) Program and identify -- 20 MR. HEILMAN: So, in terms of precise language, 21 there was a concept, not precise language yet, but that 22 we could include in that analysis trying to determine 23 what a baseline ought to be for 3.1, so that 3.1 could 24 become measurable. And, you know, and then perhaps 25 close that goal until we've got a baseline, if we think</p>
<p style="text-align: right;">82</p> <p>1 come up with a methodology for a baseline, which the 2 Kidalov study that this body had received sort of was, 3 you know, working towards, and we needed to continue on 4 to that. 5 So, I think it relates, and we could just add 6 that as part of a 1.4. 7 MR. WESLEY: I agree, just combine the two 8 together and come up with an outcome. 9 MS. BULLARD-MARSHALL: This is Maggie. I think, 10 correct me if I'm wrong, Kenyata, but maybe Andre 11 Gudger, maybe when you came in that role, I think there 12 was a survey done by DoD about barriers for SDVOSBs. Is 13 that any kind of research that you could share with this 14 team? 15 MR. WESLEY: There was -- 16 MS. BULLARD-MARSHALL: I remember participating 17 in one, but I don't remember -- I don't know what 18 happened to it. 19 MR. WESLEY: I have to go back and look. I know 20 we've had a series of studies that were done and then 21 there is one that's still pending, and it's one study, 22 but it has seven parts to it, and that's a Hill study. 23 So, if it's in that one, it's still ongoing. 24 So, I can't release any of it until it's 25 actually complete. But I'll go back, I'll have Shannon</p>	<p style="text-align: right;">84</p> <p>1 it doesn't make sense to have something that we can't 2 report out on. 3 MS. CARSON: What was the wording on that one? 4 MR. KLINGELHOFER: I think we have to identify 5 the barriers and come up with recommendations on how we 6 overcome those barriers is probably the easiest way to 7 handle that. 8 MR. WESLEY: I think we're all saying the same 9 thing, just a little differently. 10 MR. KLINGELHOFER: Yes. 11 MR. WESLEY: We have to come up with a baseline, 12 and to do that, you have to identify the barriers and so 13 forth. So, I think we're all saying the same thing, 14 we're talking around ourselves. 15 I think Wynn has a question. You have to come 16 to the table, Wynn. 17 MR. WYNN: Thanks. Just a quick question. I 18 don't understand how 3.1 ties into 1.4. 3.1, find and 19 reduce barriers, versus supporting or looking at 1.4, 20 we're talking about support for a program. So, I don't 21 see how you can define -- 22 MR. WESLEY: They go hand in hand, Wynn, because 23 think about it, in order to actually have a good 24 development program, you need to know what's affecting 25 you. You need to know what barriers exist. Because if</p>

<p style="text-align: right;">85</p> <p>1 you don't, what you're doing is you're just going to 2 create a development program that has generalities in 3 it, but doesn't address any specificity at all on what 4 people need or what the veteran community needs. 5 So, going out and identifying the barriers and 6 helping shape the curriculum that would be needed is 7 important. 8 MR. WYNN: It's important, but I still don't see 9 why we would combine the two. 10 MR. HEILMAN: Let's go the other direction, 11 perhaps. Perhaps instead of combining 3.1 into 1.4, we 12 reference 1.4 in 3.1. So, in that way, we could say 13 that in order to do a better job at this, that we 14 reference the analysis to be completed in 1.4 to give us 15 a baseline in 3.1. Did you follow that? Is that 16 clarified? 17 MR. WYNN: If anything, I would combine 3.1 and 18 3.2, you haven't got to that yet, but when you look at 19 it, if you're going to look at the barriers, you could 20 also look at the regulatory burdens, combine those two. 21 MS. CARSON: Okay, thanks for the feedback. 22 We're going to keep them separate, but we will refer to 23 1.4 within recommendation 3.1, which is currently find 24 and reduce barriers that impede service-disabled 25 veteran-owned small businesses from contracting with the</p>	<p style="text-align: right;">87</p> <p>1 development, using prototypes to demonstrate 2 capabilities, greater use of oral proposals, some of our 3 legislative work, which we're hoping Congress will act 4 on to create a new innovation setaside for new and 5 emerging small businesses to get their feet wet in the 6 Federal marketplace, that having some greater focus on 7 these activities and making sure that our acquisition 8 advocates, innovation advocates and our small business 9 advocates are working together. 10 I think we have already seen a lot of wins in 11 uses of these flexibilities in making awards to small 12 businesses and thought it might be good to have a 13 greater focus on this, too, to make sure that, you know, 14 we're highlighting these. 15 MS. CARSON: Thank you for that proposal. A 16 quick comment on this. We only recommended closure or 17 pivot because this is a requirement of agencies anyway, 18 and we -- there were still elements that we could bring 19 forward in the same vein, but were different. So, I 20 don't want anyone to think that agencies will no longer 21 have an eye to regulatory burden specifically. We do 22 have to report out. 23 MR. BLUM: My sense has been, you know, over the 24 years, that through the good conversations we've had at 25 the task force, that most of the regulatory issues get</p>
<p style="text-align: right;">86</p> <p>1 U.S. Government. Thank you. 2 Moving to 3.2, it's going to be pivoted. It was 3 reduce regulatory burdens by offering comment to 4 agencies as they conduct their regulatory lookback 5 analysis under Executive Order 13563, which is improving 6 Federal regulation and regulatory review. Recommended 7 language that came forward was promote the use of 8 innovative practices that reduce the burden for 9 veteran-owned and service-disabled veteran-owned small 10 businesses and increase access to new technologies 11 produced by these entities. 12 This is a proposal recommended by the Office of 13 Management and Budget. Mathew Blum? 14 MR. BLUM: And I think, to refresh folks' 15 memories, at the last meeting, we were talking about a 16 number of the initiatives that our office is undertaking 17 to promote more innovative practices that are 18 streamlined and simplified and if you will reduce the 19 tyranny of complexity and geared in many ways so far to 20 be helpful to companies that are providing digital 21 services, products and services to help fight cyber, and 22 many of these companies are small businesses, and we 23 have found in some of their efforts to, for example, in 24 breaking work into more manageable pieces, whether you 25 call that unbundling or agile in terms of software</p>	<p style="text-align: right;">88</p> <p>1 addressed through some of the other recommendations, 2 since we have so many that are specifically focused on 3 contracting. 4 I don't have any objection if we wanted to, you 5 know, combine this, you know, and make this a focus or a 6 sub-focus of another recommendation if there was a 7 desire to do so, but on the other hand, I think 8 innovation, you know, is kind of an important pillar of 9 an acquisition and other activity and thought it might 10 be good to try to find a way to elevate it in the work 11 of the task force. 12 MS. CARSON: Again, we may tie, if you -- if I 13 have your concurrence, that this belongs with how we do 14 outreach, that people may have these tools available to 15 them and not know it. 16 MR. BLUM: Yes. 17 MS. CARSON: And, so, we may make a linkage in 18 these recommendations. 19 MR. BLUM: Great. 20 MS. CARSON: Okay, we're moving on to one that 21 is going to stay as it is written, it continues, 22 coordinate and centralize information on veteran and 23 service-disabled veteran-owned small business 24 contracting opportunity across the Federal Government. 25 Any comment?</p>

89

1 (No response.)

2 MS. CARSON: Okay, moving on to another that  
3 stays as written, produce an agency-led assessment of  
4 veteran-owned small business achievements and  
5 contracting goals to increase veteran-owned small  
6 business utilization in prime contracting. Any comment?

7 MR. WESLEY: Yes. What is it? Because I see  
8 DoD is the lead, but I have no idea what this is. Can  
9 anybody help me?

10 MS. CARSON: It's a challenging one. It's been  
11 interpreted a couple of different ways in reports. I am  
12 going to look to my colleague, Amy Garcia, if you have a  
13 specific point, as she's done a lot of research and work  
14 in the form of report, but it can be elements of the  
15 scorecard, for example.

16 MR. WESLEY: Well, it just concerns me because  
17 it says produce an assessment, so that typically means I  
18 have a task here to give you something, but I have no  
19 idea what I'm giving you.

20 MS. CARSON: Amy is going to join us for a  
21 moment.

22 MS. GARCIA: Amy Garcia with SBA. Just  
23 remember, when these original recommendations were put  
24 together, it was 2010, Small Business Jobs Act was still  
25 coming on board, I believe. So, think of all the things

90

1 that have been done between now and then.

2 Specifically, I don't have my notes in front of  
3 me, but I know we have a list of accomplishments that  
4 we've made toward this goal, certainly. Mathew is  
5 looking at some papers here.

6 MR. BLUM: I have to grab the report, if that's  
7 helpful.

8 MS. GARCIA: Thank you.

9 MR. WESLEY: If the outcome was to increase the  
10 opportunities of service-disabled vets, as well as  
11 targeting meeting our goal, we've done that the last two  
12 years and are about to do it a third year. So, I'm just  
13 trying to figure out what is the outcome. What are we  
14 asking for?

15 MR. WYNN: Again, Joe Wynn. Just a little bit  
16 of the history on this. Actually, this derived from the  
17 fact that you had a 3 percent mandatory minimum for  
18 Federal agencies, and it would also apply to prime  
19 contracting. Often times, the primes, there was no --  
20 no teeth in it to enforce the primes to meet up to the 3  
21 percent. So, this is why it was focused on primes.

22 MR. WESLEY: Okay, so that's a different  
23 discussion. So, because this says utilization in prime  
24 contracting, so that means when the Government contracts  
25 directly to the prime -- directly to smalls as the

91

1 prime, but what I'm hearing is this needs to be pivoted  
2 to say targeting into subcontracting opportunity with  
3 the large primes, it's written wrong, from what I'm  
4 hearing.

5 And even then, still, we need to know what  
6 the -- what we're doing. Is it just to try to put  
7 together initiatives in order to meet -- help primes  
8 meet the goal? Is that what we're going after, set some  
9 initiatives? Okay, I can set up for that. That's fine.

10 MS. CARSON: Thank you for signing up for that,  
11 sir, and would you also be willing to propose some  
12 language that you think encapsulates that, either in the  
13 fiscal '16 report or --

14 MR. WESLEY: Okay.

15 MS. CARSON: Thank you.

16 MR. WESLEY: But the key to this is, and I --  
17 there's one caveat to this, since we're talking  
18 subcontracting. That data goes into ESRS directly from  
19 the primes, and there is no way to validate that data.  
20 We've been venting and complaining about that for 15  
21 years.

22 And, so, I know that GSA, and I think my  
23 counterpart over at GSA has hung up, but if he is  
24 still -- or dialed back in, he could chime in, but I  
25 know GSA is trying to develop a new subcontracting

92

1 reporting tool, but I don't know if verification and all  
2 those things are a part of it.

3 So, the data -- the metrics that we do are only  
4 as good as the data that's in the system, and we don't  
5 control it. So, just FYI.

6 MS. GARCIA: Thank you. And also noticing that  
7 GSA and DoD are working together on this or have been  
8 assigned to, the reporting element I think is really  
9 kind of the focus as well. I know in our office we've  
10 talked a little bit more about digging in deeper to some  
11 GSA FPDS data specifically for veterans.

12 So, maybe -- I don't want to speak, obviously,  
13 for GSA, but an idea, for example, would be to have some  
14 standard reporting from FPDS on veterans data that's  
15 coming out of there. That type of thing as well.

16 MR. WESLEY: So, you have standard data -- you  
17 have standard metrics and reports in FPDS-NG for the  
18 prime numbers. So, I can get veterans numbers, and I  
19 can get service-disabled vet numbers. I can even tell  
20 if those service-disabled vets or veterans are  
21 minority-owned companies. I can do that.

22 But when we get to subcontracting reporting,  
23 that's different. That goes in ESRS, and that's where  
24 the reporting challenges lie. So, the way I'm going to  
25 word this for now, it can evolve as we go forward, is



93

1 that we're going to produce a -- we're going to create  
2 some initiatives to improve subcontract -- the  
3 service-disabled vet subcontracting goal with our prime  
4 contractors. All right?

5 And then that's how we'll start it, and then as  
6 we kind of figure out what the baseline is, where we are  
7 today, we'll come back, report where we are, with some  
8 suggested initiatives to you all, in a brief, and then  
9 you can say, we're on target of what you're desiring, or  
10 we need to tweak it or pivot, as you like to call it.  
11 Is that satisfactory?

12 MR. KLINGELHOFER: Well, isn't one of the real  
13 problems here verification? I mean, how are you going  
14 to verify -- you know, one of the problems that we've  
15 seen over the years is that, you know, prime contractors  
16 come up with great subcontracting plans and goals and  
17 all of that, and no one enforces them. And, you know,  
18 or virtually no one enforces those goals.

19 MR. WESLEY: Yeah, we can actually talk through  
20 enforcement and what we have done this year about that,  
21 because we actually are doing enforcement now. Now, the  
22 question is, obviously, DoD writes tens of thousands of  
23 contracts per year and we don't have the staffing to  
24 audit all of them, but we have now stood up a section  
25 within DCMA, and each of the small business

94

1 professionals within an organization has to do so many  
2 compliance reviews per year, which is what we call  
3 surveillance.

4 And, so, we're -- and then we can take them out  
5 of cycle. So, meaning they may not have been on a  
6 schedule or plan to be audited that year, but if I get  
7 wind that something may be awry, or even the prime, and  
8 this has happened, when the prime has said, can you come  
9 in and survey me to make sure that I'm actually doing  
10 what I'm supposed to do, because I'm not even sure what  
11 I'm supposed to do.

12 So, because what you will be surprised to hear  
13 is that most of them actually want to do the right  
14 thing, they just don't even know what the right thing  
15 is, because no one has ever went through and looked at  
16 them before. So, we have actually started doing that,  
17 and so as a part of our initiatives brief, we could talk  
18 through that as well.

19 MR. KLINGELHOFER: Yeah, I know that one of the  
20 complaints I hear from small business contractors are  
21 that they're included in the proposal by name, by  
22 everything else; once a proposal is awarded, or a  
23 contract is awarded, suddenly they're out. And I would  
24 be very excited to hear DoD's report.

25 MR. WESLEY: Yeah, that's the bait and switch

95

1 provision that was in the Small Business Jobs Act of  
2 2010. You would be surprised to find out that since  
3 that act was in -- or since the law was enacted, that we  
4 have had very few actual complaints on that. People  
5 have screamed about it, but now that we actually have a  
6 law that we can use to implement, they're not using it,  
7 or the prime straightened up and flew right.

8 I don't know, but either way to go, we've only  
9 had five complaints in the last three years that I'm  
10 aware of, that someone has actually come in and filed a  
11 review for.

12 MS. BULLARD-MARSHALL: This is Maggie. So, I  
13 guess I like the idea of keeping this goal focused on  
14 prime contracting, and maybe what Kenyata was  
15 referencing earlier with the MRCOE program or whatever,  
16 is one way that his agency at least is assessing some of  
17 the achievements and successes. Maybe that would count  
18 for this. In your report?

19 MR. WESLEY: The MRCOE tool gets into how we  
20 picked -- how we made a procurement decision or an  
21 acquisition strategy decision, and it helps us -- it  
22 helps us help our contracting officers in making better  
23 decisions to make a prime award, and also to help set  
24 better subcontracting goals, so it would actually help a  
25 little bit with this, but not to the level of detail

96

1 that I think the task force is asking me to go down.

2 Like, for example, if one of the questions that  
3 the task force has is how do we set our goals for  
4 subcontracting, well the MRCOE tool helps with that,  
5 because we -- with the market research, if we know that  
6 small businesses exist, but they only do segments or  
7 fractions of the work, and it's underneath a larger  
8 contract, if we couldn't break it out, because actually  
9 the intent is to use MRCOE to break the work out to go  
10 after primes, but if you have so many smalls that do  
11 work that they don't want to be the prime contractor, so  
12 it stays lumped in as a sub, so that will help us  
13 establish realistic and achievable subcontracting goals  
14 that these primes can no longer say, well, we don't have  
15 smalls to do this. Well, now the MRCOE tool shows us  
16 who they are, what they are, and then we're able to go  
17 out and point those primes in that direction.

18 So, as long as they can go out and strike a  
19 business deal, they can actually do some help.

20 MS. CARSON: Thank you for the comments. I  
21 think we've got a decent path forward that we can  
22 continue the conversation on. I'm still in reducing  
23 barriers to growth and improve in coordination. We have  
24 about 40 minutes left and a couple of pages to get  
25 through and I want to make sure that the members who are

97	<p>1 here have a chance to report on topics beyond this, if 2 we can at all possible.</p> <p>3 The next we'll keep, increased collaboration on 4 Federal contracting opportunities between national 5 veterans advocacy groups and SBA's Office of Veterans 6 Business Development. In 3.6, a recommendation then 7 from Vietnam Veterans of America is, it's a closed 8 pivot, I know Mr. Wesley likes that word, so I am going 9 to keep using it. It did say in the past develop a 10 streamlined, efficient and clear certification process 11 to be used by veterans and service-disabled veteran- 12 owned businesses in Federal procurement.</p> <p>13 The pivot is to seek legislation to establish a 14 single Government-wide program to certify SDVOSB status. 15 This goes to our earlier conversation, I'll turn it to 16 you, sir.</p> <p>17 MR. KLINGELHOFER: Yes, I recognize that we 18 cannot seek legislation, so instead I would recommend 19 that this be modified to read, conduct an analysis of 20 the benefits and drawbacks relating to having a single 21 government-wide program to certify SDVO status and 22 recommendations on how such could be established.</p> <p>23 MS. CARSON: If the assessment led one to the 24 conclusion that that should occur.</p> <p>25 MR. KLINGELHOFER: Yes. Yes.</p>	99	<p>1 MS. CARSON: Yes.</p> <p>2 MR. WESLEY: So, this is one where I'm going to 3 ask that DoD not be on this one, all right?</p> <p>4 MS. CARSON: Concur.</p> <p>5 MR. WESLEY: All right? Because this is more -- 6 this is actually the VA swim lane. I don't actually 7 have any control over veterans data.</p> <p>8 MS. CARSON: Agree.</p> <p>9 MR. WESLEY: And I have actually said that 10 several times. Not for you, but in the Hill, to the 11 Hill, because they came back to us and asked us about 12 this several times, and I -- my boss, as well as me, 13 we've been very honest about this, I don't have a swim 14 lane for this one.</p> <p>15 MS. CARSON: At the point where this 16 recommendation is going with our stated boundaries of 17 investigating and conducting analysis, I concur that DoD 18 will be dropped from this effort as we're going to write 19 it. Do you agree, VVA Representative Klingelhofer?</p> <p>20 MR. KLINGELHOFER: I'm trying to think whether 21 there is anything that -- it seems to me, though, that 22 there disability status questions that are answered for 23 disability retired -- medically retired service people 24 that the DoD has within its records, specifically. Are 25 those completely open to the SBA or the VA network?</p>
98	<p>1 MS. CARSON: Would you include -- because I know 2 this has also come up, are you also asking for a 3 comparison of any elements of the self-certify compared 4 to the --</p> <p>5 MR. KLINGELHOFER: I think that's certainly part 6 of it. I mean, because, yeah, if you establish a 7 Government-wide certification program, then the 8 self-certification would be out. So, I think 9 necessarily, that is part of -- already part of this.</p> <p>10 MS. CARSON: To work towards what we had 11 discussed, which is getting specific, measurable and a 12 time frame for doing it, may I ask for further VVA 13 comment that we could include in the fiscal '16 report 14 on what elements we should include? It doesn't have to 15 be now, I'm asking for when you receive your draft of 16 the report, can we --</p> <p>17 MR. KLINGELHOFER: Yes, I'll revise this to 18 include dates and try to break it down a little further.</p> <p>19 MS. CARSON: And elements that you would want to 20 see in the analysis.</p> <p>21 MR. KLINGELHOFER: Yes.</p> <p>22 MS. CARSON: Okay. Thank you. Any comments?</p> <p>23 MR. WESLEY: We are just talking 3.6 right now? 24 That's what we're on, 3.6?</p> <p>25 MR. KLINGELHOFER: Yes.</p>	100	<p>1 MR. WESLEY: Anyone who is a certified 2 veteran-owned company, that goes all to the VA. We 3 don't have anything to do with that. And anyone who is 4 an employee, meaning that that's not -- they're not 5 under this act, that would really be separate and that 6 would go through OMB and OPM, not through us.</p> <p>7 MR. KLINGELHOFER: No, I didn't mean veteran 8 company, I meant with regard to the base for being a 9 service-disabled veteran-owned business.</p> <p>10 MR. WESLEY: Yeah, that's not established by us.</p> <p>11 MR. KLINGELHOFER: Is that you have to be a 12 service-disabled veteran who was disabled in the line of 13 duty, et cetera, et cetera.</p> <p>14 MR. WESLEY: Correct, but that's determined by 15 the VA. The VA makes that assessment. So, for example, 16 once a medical board -- and I know this because I am 17 one, so I can speak of it. The process is once you go 18 through your medical review and you are either medically 19 discharged, or medically retired, your records are 20 transferred over to the VA, they do an assessment and 21 they will rule you a service-disabled vet by a letter 22 that you receive.</p> <p>23 It's actually nothing that the department does, 24 even your DD-214, even though it may say medical issues, 25 it does not automatically qualify you for VA</p>

101	<p>1 compensation, it has to still be reviewed, a medical 2 exam conducted by the VA, so that is a VA determination. 3 Wynn? 4 MR. WYNN: Just one comment. This really is -- 5 came about because of the CBE, you know, verification 6 program at the VA. The reason why DoD, your predecessor 7 previously had sounded like they supported some 8 discussion on this in looking into a Government-wide 9 program is because even though there has been issues 10 over the years with people not feeling like that CBE 11 verification program is a benefit to all veterans, when 12 we look at the stats of the program, the Vets First 13 Program, we have to admit, they have surpassed every 14 percentage above every agency in the Federal Government. 15 So, the idea here is this task force support 16 looking at an agency -- a Federal Government-wide 17 program that would increase opportunities for 18 service-disabled vets across the Federal Government. 19 That's the only thing this is really looking at. 20 MR. WESLEY: But that's not what it says. This 21 is talking about a Government-wide approval process, all 22 right? Certification process. 23 MR. WYNN: Well, you've got to be certified by 24 somebody. 25 MR. WESLEY: Right, but the certification</p>	103	<p>1 of the Interagency Task Force and will have a voice and 2 obligation to contribute some input after we have done 3 the analysis. Okay, thank you. 4 We have a new one proposed by the Office of 5 Management and Budget, and it is help veteran-owned and 6 service-disabled veteran-owned small business understand 7 and meet existing and emerging requirements for cyber 8 security protections in Federal acquisitions. 9 MR. BLUM: Thank you, Barb. 10 At the last task force meeting, Deputy 11 Administrator Kramer expressed an interest in having 12 some relatively narrow tailored recommendations to 13 address some specific emerging issues, and we talked a 14 little about cyber, and this is the thought here is 15 actually relatively soft, but at least as a -- as one 16 step, you know, recognizing that the -- you know, the 17 acquisition spaces is complicated by these emerging 18 requirements for cyber security protections, and they're 19 going to be more requirements on all of the acquisition 20 community, not -- this isn't just for small business, 21 but the -- some of you may be aware that there's been a 22 fair amount of work on the controlled unclassified 23 information that has been led by NARA in accordance with 24 executive -- an executive order and is designed to try 25 to make sure that when agencies have similar types of</p>
102	<p>1 process should be -- and actually, so, in writing, we 2 have turned this in as public record, and I've been down 3 there on public record several times. We support the 4 certification process, it just needs to be with the VA 5 and we have said openly the VA needs to be funded and 6 staffed before they -- the Government does that. 7 Because what you don't want to have is a backlog of 8 veterans' applications because we go -- it says DoD, 9 Department of Treasury, Department of Labor, no one can 10 award a service-disabled vet contract before these guys 11 are certified and then there's a backlog to get them 12 certified. That's a problem. 13 MS. CARSON: Can I take a moment? It's Barb 14 from SBA. 15 Your points are valid, but again, we are not 16 able to do this as the proposal is written to propose 17 legislation. I believe it's reasonable, and not -- it's 18 the right amount of ambition to investigate and compare 19 what, to your point, how has it been successful and what 20 was it, because there was certification that they've 21 been successful, compared to then the rest of 22 Government, which is self-certification. And what would 23 the elements be going forward? 24 So, I propose that we stick to the investigation 25 that DoD does not have a part in that, they are a member</p>	104	<p>1 information, PII, personally identifiable information, 2 that the level of security as a general matter is being 3 handled in a similar manner, unless there's some 4 specific reasons for doing otherwise. 5 So, this rulemaking will have ramifications in 6 the way that agencies instruct contractors to a certain 7 extent, so that's going to require some regulatory 8 change by the FAR counsel. OMB will soon be issuing a 9 guidance document that's expected to address a variety 10 of issues in a contract clause that the FAR will develop 11 on information security controls, building off of work 12 that NIST has done, incident reporting, the timing that, 13 you know, the responsibilities on contractors to 14 identify incidents, and to recognize, by the way, that 15 the fact that you're reporting a breach has occurred 16 doesn't mean that you are acknowledging culpability, 17 something important for contractors, because first and 18 foremost, the Government needs to know of problems. And 19 information security continuous monitoring requirement. 20 And then, thirdly, in the privacy space, there 21 are also some additional steps that our office of -- our 22 privacy office, and now that we have the counsel of 23 privacy officers, are taking to seek further 24 clarification on some of those responsibilities. 25 So, given all of that, we thought it would be</p>

<p style="text-align: right;">105</p> <p>1 helpful to make sure, and this task force, I think, has  2 been very helpful in making sure that the appropriate  3 agencies are paying attention to small business impact,  4 and in this instance, at least as one step, making sure  5 that, you know, things as simple as a fact sheet that  6 would -- that could be easily digested by the small  7 business community and kind of deconflicting some of  8 this information as it gets finalized.  9 We can build on this recommendation as we move  10 forward, but it wasn't immediately apparent to me in  11 terms of, you know, I think it's premature to talk about  12 what exceptions and whatnot. I don't know if, you know,  13 how that plays, but, you know, clearly as a first step,  14 just making sure they understand that responsibilities  15 would be helpful.  16 MR. WESLEY: Hey, Mathew, we at DoD can sign up  17 to help you. We actually already completed this task  18 under the leadership of Dr. Galvin, who normally  19 participates in this task force. He already put a  20 pamphlet together, has some quick points of reference,  21 it even talks about reporting, just everything you just  22 discussed, we've already completed it and got a series  23 of handouts, and there's actually one on the DoD small  24 business website currently.  25 So, feel free to take that, use it, if you want</p>	<p style="text-align: right;">107</p> <p>1 MR. WESLEY: He's been voluntold.  2 MS. CARSON: Yes, voluntold. That's right.  3 We are moving to our final bucket of  4 recommendations, and that's in the research and policy  5 realm. We have four of them, two are Department of  6 Labor, so I know we will -- we will make it through  7 these a little faster. As I said, it's important that  8 the members get a chance to speak. So, we will get  9 through them.  10 The American Legion's representative has taken a  11 new position, so he is no longer here, but before he did  12 leave or vacate his position, he provided input to 4.1,  13 and that one is sustained, that's their proposal, to  14 best the GI Bill benefit as a property right, allowing  15 veterans to use funds both for education and small  16 business creation activities, such as counseling and  17 business financing.  18 They are not here to provide further context. I  19 do have those in writing. We will provide them in the  20 fiscal '16 report. Are there any comments?  21 MR. WESLEY: That's another one that has DoD  22 listed. If you want us to play a part of it, somebody  23 needs to just tell us what role, but I don't see a role  24 for us there either.  25 MS. CARSON: I agree, you did not manage the GI</p>
<p style="text-align: right;">106</p> <p>1 to tab in or ask us any questions. Ours are specific to  2 DoD as well as normal, because we have some DFAR clauses  3 that, of course, affects how you do business with  4 Department of Defense, but we are willing to share that  5 with any of the Federal agencies that would like it.  6 And for any of the veterans groups, it's right on our  7 website, if you have any companies that are doing  8 business with the department, I suggest they get it,  9 because it is extremely important that they understand  10 how to protect their data and their information.  11 It's not just protecting the department that  12 matters, because you are a part of our industrial base  13 and supply chain. You may be a sub to a large prime,  14 but the -- and what I will say to you is, it's not just  15 the primes that people are going after, they're going  16 after our supply chain, because if it goes -- if you go  17 into one, it's a way in, an avenue into something else.  18 So, just keep that in mind. So, I actually  19 strongly concur with Mathew's recommendation, and we  20 will give any of the information we have to the group.  21 MS. CARSON: Thank you. Thank you. We will  22 have perhaps a minor edit to provide veteran business  23 owners rather than help, and may I ask if we can put  24 Dr. Galvin on the spot to provide an update as a  25 baseline in December, and then we can iterate from that?</p>	<p style="text-align: right;">108</p> <p>1 Bill benefit, you create the veteran. So, we will  2 remove DoD from 4.1 and sustain it.  3 MR. WYNN: I had just a quick comment. Just  4 keep in mind, again, this is one of those type of  5 recommendations that to change this definitely would  6 take an act of Congress, just like when we were talking  7 about 1.4. So, I'm just saying that to say that this  8 body can make recommendations with regard to support of  9 programs that would help the veteran business community,  10 it doesn't mean that we are saying we're going to  11 change, you know, the legislation, but even though it  12 would have to be. And there has been, as you know,  13 you've had someone here talking about legislation to  14 actually make this happen.  15 MR. HEILMAN: So, I think that's an excellent  16 point to clarify, Joe. It's Craig at SBA, and it goes  17 back to the conversation we had earlier today around we  18 can't propose, but if there's something out there that  19 would need our insight in terms of an interagency place  20 to discuss to then respond to legislation that it could  21 be appropriate for us to then keep that on our agenda.  22 And, so, in this case, there is proposed  23 legislation, and thus there has been a lot of activity  24 around it, and requests for comment, and feedback. And,  25 so, I think that's a little bit of -- puts it in a</p>

109

1 little bit of a different place than what we were  
2 talking about earlier.

3 MS. BAINTON: Amanda from MOAA. Just a question  
4 for the group, and this is just because I feel like the  
5 language is very vague here, is there a need or do you  
6 think we should add something that specifies that there  
7 should be some requirements met prior to awarding or  
8 transferring these GI Bill benefits? Should we be  
9 successful with that?

10 MS. CARSON: Yes. This feels good. I know how  
11 Mr. Wesley feels when you feel like you've done the work  
12 already to provide some clarity on that. So, our office  
13 with great presidential management fellows and others on  
14 the team have come up with some criteria for how this  
15 might look if it were enacted, and we would be happy to  
16 present on that at any time.

17 All right, we're going to move to two others  
18 that Department of Labor will comment on, and these were  
19 recommended to change slightly. First was research and  
20 direct policy effort around current veteran  
21 macroeconomic issues by conducting more in-depth  
22 analysis of veteran unemployment, employment and self  
23 employment. The change requested by DoL would be  
24 explore the availability of data from BLS, Bureau of  
25 Labor Statistics, that may address the data gaps, and

111

1 although it says DoD, it's not necessarily your office,  
2 it's through the Transition Assistance Program where  
3 we're looking at economic opportunity more broadly.

4 MR. WESLEY: Okay. I think it just needs to --  
5 I think we just need to kind of clarify some of that.  
6 You know, if it's an office underneath the department,  
7 so that way since I'm the rep here, if I need to go back  
8 and let them know they've been tasked, because hopefully  
9 somebody is talking to them, because, you know, in all  
10 due respect, it's a very large organization, and I'm  
11 finding out that people will come back and the messages  
12 don't always get relayed.

13 So, typically, Shannon or Lydia will be with me  
14 and we make sure that those get tasked back.

15 MS. CARSON: I will close the loop. Thank you.  
16 Comment here in the room?

17 MR. ZAKRCHLICHEA: Yes, Mike Zacchea from Econ  
18 EBV and the Connecticut Veterans Chamber of Commerce.

19 For several years I've been working on  
20 developing a veterans economic attainment index, which  
21 is an index of indices from various data sources, both  
22 public and academic. I really think that -- and just  
23 yesterday the Census Bureau released the report, annual  
24 report on income and did not mention veterans' income  
25 attainment at all.

110

1 where BLS is not able to provide data, seek other data  
2 sources.

3 Go ahead, Labor.

4 MR. METHENY: This is Bill Metheny.

5 So, I think we just needed some clarity on the  
6 wording here, and so what I would propose is that within  
7 the next few weeks I set up a coordination conference  
8 call with representatives from Bureau of Labor  
9 Statistics to have a conversation about what it is that  
10 we're trying to answer, and why. And then ask the  
11 question about whether they have the data available to  
12 answer those, or if they're aware of other sources to  
13 get at that.

14 And then based on what we come out of that  
15 conversation with, in December, we can provide back what  
16 the questions are, what will be looked at and where we  
17 need to go further to get at this. And part of this,  
18 too, is the macroeconomic issues will be great,  
19 obviously at a broad scale, but what we find is a lot of  
20 these issues are very local and regional focused. So,  
21 that might be something that shapes our conversation as  
22 well.

23 MS. CARSON: Thank you. And SBA would like to  
24 contribute what we have been learning about potential  
25 research opportunities with Census and DoD as well. So,

112

1 I would like to be part of the solution, or at  
2 least the -- whatever work group comes about measuring  
3 veteran macroeconomic attainment, because I find that  
4 that -- the data that's available is fragmented, and I'm  
5 interested in bringing this into a single cohesive data  
6 packet that would measure economic attainment for this  
7 population.

8 MS. CARSON: And Mike also serves on the  
9 Advisory Committee for Veteran Business Affairs, it  
10 would be a very nice collaboration to have between these  
11 two thoughtful committees.

12 Moving to the other Department of Labor  
13 recommendation, it was explore revision unemployment  
14 compensation for ex-service members to support small  
15 business creation. The proposed modification would be  
16 develop unemployment insurance outreach collateral that  
17 addresses existing support at the state level.

18 Go ahead.

19 MR. METHENY: In our last meeting, we talked  
20 about the fact that there are already a number of  
21 options and best practices being used around the country  
22 with state programs and how they implement Federal  
23 programs. So, what I would propose is that by the  
24 December meeting, I provide an information paper of some  
25 sort that lays out some of those practices and options

113

1 that we can then review and then distribute across the  
2 country to allow states to learn from each other as a  
3 community practice. Where they can make changes, who  
4 can make those changes, and where it fits into Federal  
5 process.

6 MS. CARSON: Thank you. Any comments in the  
7 room?

8 MR. WESLEY: Again, you have the DoD listed  
9 again.

10 MS. CARSON: Thank you. Appreciate that. And,  
11 finally, I'm going to check in again and see if  
12 Department of Veteran Affairs has a representative on  
13 the line.

14 (No response.)

15 MS. CARSON: Okay, we may save this one. The  
16 existing recommendation was examine ways to further  
17 increase attention given to employment of veterans by  
18 Federal contractors. VA did have a proposed new  
19 recommendation, unless there's anyone who is comfortable  
20 briefing at this point.

21 MR. BLUM: Sorry. This is Mathew Blum.

22 I think actually the original proposal was  
23 different. It was the -- to -- I think it was the  
24 creation of a new small business procurement initiative  
25 for firms whose total work force is comprised of at

115

1 know, success of that -- what that looks like, and I  
2 think we talked a little bit about maybe sharing that  
3 information to see if it makes sense, and it's something  
4 that other agencies might want to look into.

5 The second piece of this was that just to remind  
6 folks that the FAR counsel opened up a case in the  
7 context of past performance to start evaluating  
8 compliance, contractor compliance with various laws that  
9 are incorporated into their contracts, which would  
10 include, you know, small business requirements,  
11 including Aldevra, for example, and the affirmative  
12 responsibility that they have there to create  
13 affirmative hiring plans.

14 So, at this point, we didn't -- OMB didn't have  
15 the specific position other than I thought based on some  
16 of what we were informing the public through our  
17 reports, that, you know, there may be some interest in  
18 continuing the conversation and pivoting to something  
19 like this as opposed to just eliminating the  
20 recommendation all together.

21 MR. WESLEY: Just a question. So, you said a  
22 lot there. So, are we -- are we actually considering or  
23 has it been proposed by whether by the VA or whoever,  
24 that we alter the service-disabled vet, the procurement  
25 side of this, to include a number of employee

114

1 least 35 percent or more veterans. That was the  
2 original proposal. This was the alternative of a  
3 strawman just being floated for consideration.

4 And just to refresh people's memories, there was  
5 a fair amount of research done, and I think the  
6 conclusion was reached that we would need legislation in  
7 order to, you know, have any sort of requirement that  
8 would -- could exclude entities based on the fact that  
9 they didn't meet that 35 percent threshold. In other  
10 words, if you want a program that looks like the HUBZone  
11 program, you're going to need Congress to endorse that.

12 So, in the course of conversation, I think at  
13 the last meeting, and it's actually also in the draft --  
14 most recent draft report to Congress, Tom and his team,  
15 Leney, from VA, discussed a criteria factor that they  
16 put in -- an unemployment criteria factor that they put  
17 into their Transformation Twenty-One Total Technology  
18 Next Generation contracts, T4NG, where it requires  
19 offerors, regardless of size status, to include a  
20 veterans employment and vet certification report  
21 identifying the total number of veterans employed with  
22 their firm, along with the total number of employees  
23 working at the firm at the time of the proposal.

24 And he was going to report back or give us an  
25 update on, you know, what the impact of that -- you

116

1 requirements, like a 35 percent requirement?

2 MR. BLUM: Sorry, just to be clear, my  
3 understanding, and I'm sorry that VA is not available,  
4 or not in our group, because they could speak to this  
5 more definitively. The original one would have said if  
6 you don't have 35 percent -- the original recommendation  
7 was explore creating a floor, and if you don't have at  
8 least 35 percent, then you wouldn't qualify for the  
9 procurement. What I think -- right -- and we said that  
10 would need legislation and that's a larger conversation.

11 MR. WESLEY: Oh, I'll tell you now, just for the  
12 record, the public record, I know it's on there, if they  
13 did that, at least while I'm in this seat, and I'm  
14 pretty sure my current boss would agree with me, we  
15 would not support that. Because now you're talking  
16 about potentially eliminating a services vet --  
17 service-disabled vet-owned company from qualifying for a  
18 procurement. And we don't want to eliminate a small  
19 business owner that's a veteran from competing if they  
20 qualify.

21 MR. BLUM: So, I think what -- again, Barb got  
22 it right, that's why she is sitting at the head of the  
23 table, in terms of deferring this until VA can be on  
24 part of the conversation. But I think to avoid that  
25 specific, you know, unintended and potentially bad

117

1 consequence, is to instead make it a -- make a criteria  
2 to say how many people are you employing, so that it  
3 becomes an evaluation factor, not an elimination factor.  
4 So, it would be -- and that also may be something  
5 that --

6 MR. WESLEY: Yeah, just -- I got you, because  
7 I'm not shooting the messenger, so don't think that.

8 MR. BLUM: You can.

9 MR. WESLEY: Even if you make it an evaluation  
10 criteria, that means we would be giving up preference,  
11 which could potentially eliminate a veteran company who  
12 might be highly technically qualified, and I, for one,  
13 would not want to have a potential mediocre successor or  
14 awardee versus a highly qualified one, if technical was  
15 more important.

16 So, I just want to make sure we are thinking  
17 through this, these suggestions, as we do them, because  
18 the last thing I need is to be standing out in front of  
19 whatever conference I'm at and I've got a bunch of  
20 veterans screaming like they used to, because I mean,  
21 we've come a long way, and everybody keeps forgetting  
22 how far we have come. I remember when the veteran goal  
23 first was proposed and we were at like 0.5.

24 MR. BLUM: Right.

25 MR. WESLEY: 0.5, all right, and now we're above

118

1 3 percent and rocking the -- and we're continuing to  
2 improve every year. Do you want to put something  
3 forward that will now make us digress back that doesn't  
4 give you an actual true improvement to what you are  
5 working on? Because what you're working on now are  
6 procurements. If you want to now make it an actual  
7 veterans hiring initiative, that's a separate discussion  
8 that we should have, but I don't think you want to now  
9 take away from your current opportunities that you've  
10 been successful building. That's all I'm saying.

11 There's another way to do this that I don't  
12 think you want to take away from what you currently have  
13 been successful building as a group or as a team.

14 MS. CARSON: Thank you, those are good comments.  
15 It's Barb at SBA.

16 I would like to continue the conversation.  
17 First it will be in writing, in the fiscal '16 report,  
18 and we can get clarity on exactly what is proposed, and  
19 it will come back at the December meeting, unless there  
20 are any other comments.

21 (No response.)

22 MS. CARSON: Okay. Thank you. That closes out  
23 what we were charged to do today, and I'm grateful for  
24 the effort that was put into it. That doesn't mean we  
25 can put all the papers away. I do want to give a chance

119

1 really quick to go around the table and get feedback,  
2 input, comments from our members. So, I'll start with  
3 Vietnam Veterans of America.

4 MR. KLINGELHOFER: I have nothing at this point.  
5 I already said enough.

6 MS. BAINTON: Amanda with MOAA.

7 I am not going to talk a whole lot. A lot has  
8 already been said, and it's very encouraging. Something  
9 that our organization is really focused on now, not me,  
10 because I'm not a lobbyist, but is preserving the GI  
11 Bill transferability, which directly affects what we're  
12 doing here, and specifically recommendation 4.1. So,  
13 that's something that we will continue to pursue and  
14 obviously you'll hear all the updates.

15 The other thing that I just want to mention, as  
16 a service organization, sometimes what we're finding is  
17 that people have a really hard time figuring out what  
18 benefits are available, and I've mentioned this many  
19 times before, you all have different initiatives and  
20 different programs. There's websites, there's tools,  
21 and I know we've had many discussions about bringing it  
22 all together, but that is something that we're focused  
23 on as an organization, is really being able to provide  
24 these resources to not only our members, but everyone  
25 who is serving.

120

1 So, that is one initiative we have. So,  
2 anything that you all have that you want to send to us  
3 that you want us to promote to our members, that would  
4 benefit not just our members, but anyone in the military  
5 community, I would gladly take it and do what I can to  
6 promote it to help the greater good. And that's all.

7 MS. CARSON: And I want to thank MOAA for their  
8 partnership. This is one we've strengthened our  
9 collaboration, and an example was the Air and Space  
10 Museum where you did offer transitioning service members  
11 and spouses opportunities to learn what about was  
12 available in education, employment and entrepreneurship.  
13 You've been an incredibly helpful connection of  
14 resources.

15 And I cringe, I try not to do it too publicly.  
16 When we try and put things in one place, not everybody  
17 goes to one place, they want to find the right thing for  
18 them wherever they may touch, which is hard. Which is  
19 why collaborative relationships are important. We're in  
20 one wheel and we've got spokes, and they do cross and we  
21 refer to each other, if we've got something valuable to  
22 offer, I should be talking about what Labor is doing for  
23 entrepreneurship, right?

24 And, so, that's where we see the most room for  
25 growth. And on a personal note, I want to thank the

121

1 transition event, because you helped my husband active  
2 duty find what is next for him. So, I personally found  
3 the work that you're doing incredibly valuable. Thanks  
4 for that.

5 MS. BAINTON: And thank you, and we actually set  
6 our date for next year's, and it's going to be in  
7 October, and I invite all of you to attend. We would  
8 love to bring all the resources together in one room,  
9 along with other organizations who provide things. The  
10 whole point is we don't want to re-invent the wheel  
11 here, we want to just bring the best opportunities.

12 I am very happy to hear that and we are very  
13 grateful to SBA for your support with all that.

14 MS. CARSON: Thank you. I'll turn to Mathew  
15 Blum.

16 MR. BLUM: Thanks, Barb.

17 Just very briefly. Just an update on our  
18 legislative initiatives on simplification. We are still  
19 working with the NDAA conferees and keeping our fingers  
20 crossed that they will adopt some of the proposals that  
21 we recommended, including the innovation setaside for  
22 new and emerging businesses so that new entrants can get  
23 their feet wet in the Federal space. And also potential  
24 increase in the simplified acquisition threshold to help  
25 in providing use of -- expansion of simplified

122

1 procedures and reduced compliance burdens for the many  
2 small businesses that compete and get work between that  
3 \$150,000 and \$500,000 space.

4 MS. CARSON: Thank you. I am going to start on  
5 this side of the table with Bill Metheny, Department of  
6 Labor. Any updates, please?

7 MR. METHENY: You probably all saw the great  
8 news for the August unemployment numbers, the veteran  
9 unemployment rate is 4.3 percent, maintaining a lower  
10 level than overall unemployment rate again. It  
11 continues at a 24-month trend where there was only one  
12 exception that was off by 0.1 percent. So, continued  
13 great news there.

14 Additionally, unemployment rate for 18 to  
15 24-year-olds is 6.5 percent, which is significantly  
16 lower from a year ago when it was 9.2. So, good news on  
17 the unemployment numbers.

18 We continue to focus on the transition  
19 assistance program, and our Department of Labor  
20 Employment Workshop, the new curriculum is out on the  
21 street and being used, with focus areas on especially  
22 extra time on resume writing, interviews and  
23 consultation to help folks adjust in the workplace.

24 Along those lines, Amazon has offered, and we  
25 have taken them up on their offer, to put the Employment

123

1 Workshop Handbook in an e-book, and it's on Amazon, and  
2 you can get it in a variety of formats, and it's for  
3 free. So, that way, folks can get it whenever, wherever  
4 they want it, and take it down on a submarine while they  
5 want to study.

6 And lastly, as we're trying to continue those  
7 relationships that Barb referred to, both at the  
8 national level, all the way down to the local level,  
9 some examples of where interagencies are partnering from  
10 roundtable discussions on a recurring basis that include  
11 state and Federal labor agencies, the small business  
12 teams that are in the states, and the Federal  
13 representatives. Those are continued on.

14 And VA is not here, but I will give a plug for  
15 one of the efforts they're leading that are through the  
16 MyVA community, and the community veterans engagement  
17 boards that are tying in all the different players  
18 around 100 cities and growing that pulls in the public  
19 workforce systems, and whatever shape that community  
20 wants to take a look at and focus on. So, a lot of good  
21 things happening up and down across the country.

22 Thank you.

23 MS. CARSON: Thank you. That's outstanding.  
24 And I think it would be meaningful if we could talk  
25 about in a future meeting, probably December is already

124

1 packed, but March, the collaboration between agencies  
2 not only in D.C., but locally, I think we have some  
3 great examples of how that's happening.

4 Wesley? Nothing for the record, okay.

5 I'm going to turn to on the line, do we have  
6 anyone from GSA, Veterans Affairs, or Treasury?  
7 (No response.)

8 MS. CARSON: Okay. Then I'm going to speak like  
9 an auctioneer and just give a few quick SBA updates,  
10 because I'm not going to get all the way through, but I  
11 do want you to know that they will be a part of the  
12 public record, because I'm about to post them on your  
13 screen so you can look at them, and if you have  
14 questions, you can come back to them later.

15 So, Jerry, if you wouldn't mind, can you go to  
16 the one that looks like this. Thanks.

17 And for those, if you have to leave, I've got  
18 maybe six minutes of your time, maximum. I want you to  
19 know that Amy and I will be reaching out to members on  
20 September 26th for the first phone call on what we're  
21 doing with the fiscal 2016 report. I know it's  
22 ambitious, but we would at least like to frame it for  
23 you. Not asking for any deliverables until about  
24 Halloween, because we know it takes time to get that  
25 end-of-year data on the recommendations.



125

1 And, so, top line, National Vets Small Business  
2 week, and I will get to that side last, it's okay, is  
3 going to be kicking off on Halloween, and it will  
4 conclude on 4 November, because there is a Presidential  
5 election happening, let's get focused on the vets fully  
6 the week prior.

7 There will be a social media kit and more coming  
8 to you. The theme is veteran entrepreneurs success  
9 across generations. We want to talk about the resources  
10 that were available after World War II, we've got some  
11 great exemplars of entrepreneurs then and some of the  
12 opportunities and challenges in legislation and groups,  
13 what have made veteran entrepreneurs successful.

14 We'll be kicking off with a policy breakfast  
15 with DoD and others on, you know, what are some of the  
16 challenges that are out there for service members as  
17 they look to entrepreneurship as the next step.

18 Real quick, Veteran Business Outreach Centers.  
19 We increased those by seven since we were last together.  
20 So, we're a total of 20, a map is included in the brief  
21 on where they are. We've just concluded a training  
22 event, to ensure that we have consistency across the  
23 network of resources available, especially to the  
24 transitioning service member population.

25 Boots to Business, the bumper sticker here is

126

1 over 48,000 service members and spouses have attended  
2 since January of 2013, and we're getting indications  
3 already that their business starts are happening, and  
4 it's at a decent rate, and we look forward to reporting  
5 in more detail on that.

6 I do want this body to know that the cooperative  
7 agreements that make it possible to deliver Boots to  
8 Business will be recompeted. The program announcement  
9 will likely go out right around the next time that we  
10 meet.

11 Boots to Business reboot is the same similar  
12 curriculum but provided to those who didn't have a  
13 chance to use TAP, or our veteran of a different era,  
14 and military spouses, Guard and Reserve, that is  
15 continuing as a grant relationship, closing out the  
16 co-sponsorship. We are grateful to private sector  
17 making it happen. Institute for Vet and Military  
18 Families, First Data and Marcus Foundation, but now it  
19 will be fully a grant. Women veteran entrepreneurial  
20 training, next events are in Savannah and Phoenix,  
21 November and January.

22 For military spouses, DoD and SBA have worked  
23 together to provide monthly webinars. We're going to  
24 continue those in the coming year. They were the most  
25 popular online source for entrepreneurship information

127

1 that they have ever provided, and there are more  
2 developments to come on that.

3 I had hoped I would be able to announce publicly  
4 that SBA has -- is going to award four service-disabled  
5 veteran entrepreneurial development training grants.  
6 They have been recommended to the administrator and  
7 approved, but we need to finalize those awards before I  
8 can name them, but I can tell you they're incredible and  
9 we will spend more time on that topic in December.

10 Veteran Institute for Procurement, the next  
11 upcoming classes, and the focus, all listed there.  
12 Barbara Ashe, thanks for joining us, if anyone has  
13 questions on that. How to get procurement ready. She's  
14 the person that we truly count on for a lot of feedback.

15 Next slide. A first for us. SBA accelerators  
16 that are focused on -- they won awards from SBA, but  
17 they're accelerators focused on veterans. Our office  
18 put in money to ensure that we would get such people  
19 competing and winning, and we are -- have awarded to  
20 Bunker Labs in Chicago, New York University's Tandon  
21 School of Engineering in Brooklyn, and the Rosie Network  
22 in San Diego, which serves not only service members and  
23 veterans, but also military spouses.

24 In contracting, you've received an update on  
25 Mentor-Protege. I hope you're satisfied with that, as

128

1 well as the decision on Kingdomware and its impact.

2 For capital, there is a change ahead, and this  
3 one is really hard to do in two minutes or less, but I'm  
4 going to try real fast. Last year, a law was enacted  
5 that allowed -- it provides for permanent fee relief to  
6 veterans for loans under \$350,000 as part of the SBA  
7 Express program. Make sure I get that contract. Yes.

8 That will continue by statute, you know, unless  
9 SBA does not remain subsidy neutral. We can have a  
10 different discussion on what that means, but generally  
11 one sentence would be the fees that people pay up front  
12 in order to have that extra backing of the Government  
13 that we're going to cover them if they default, those  
14 fees are what keep us at neutral subsidy. If too many  
15 people default, that uses up the money.

16 So, the provision in the legislation said we had  
17 to remain subsidy neutral in order to have that  
18 provision continue. In order to get that to continue in  
19 fiscal '17, we had to reduce the fee relief that we were  
20 providing on loans to veterans. So, it had been up to  
21 \$5 million, it's now up to \$500,000. This was -- it's  
22 the administrator's prerogative for anything above  
23 \$350,000, so we still have something above and beyond  
24 what the law provides for and that is because the  
25 administrator really values what veteran entrepreneurs

129	<p>1 can bring to the American economy.</p> <p>2 So, fee relief does continue from \$350,000 to</p> <p>3 \$500,000, and more details are on the slide there. If</p> <p>4 there's more to talk about, I will do that in December.</p> <p>5 Next slide. This is work we've already</p> <p>6 completed. So, I want to thank you for a really</p> <p>7 meaningful convention today, and for the input of those</p> <p>8 that are in the room and who joined us on the phone.</p> <p>9 Any questions, final comments?</p> <p>10 MS. BULLARD-MARSHALL: Barb, this is Maggie.</p> <p>11 Just a final comment, I know Tom wasn't able to</p> <p>12 make it from the VA, but the VA conference is coming up</p> <p>13 in November, and it's a wonderful opportunity to achieve</p> <p>14 many of the goals this task force is working on. So,</p> <p>15 encourage attendance and participation.</p> <p>16 MS. CARSON: Thanks for the reminder. That's</p> <p>17 November 1 to 3 in Minneapolis, Minnesota. The National</p> <p>18 Veterans Small Business Engagement, hosted by the</p> <p>19 Department of Veteran Affairs.</p> <p>20 One more comment from Mr. Phipps.</p> <p>21 MR. PHIPPS: Quick comment. The ACVBA, the</p> <p>22 committee that we sit on, is an independent body that</p> <p>23 makes policy recommendations and we can make legislation</p> <p>24 recommendations to Congress, the White House and to the</p> <p>25 SBA. We're an independent body. We submit those</p>	131	<p>1 Development is on December 8, also here.</p> <p>2 With that, we're complete. Thank you very much.</p> <p>3 (Whereupon, at 12:10 p.m., the conference was</p> <p>4 adjourned.)</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
130	<p>1 recommendations directly to Congress, the White House</p> <p>2 and the SBA without any influence from many agencies.</p> <p>3 As I've noticed today, a lot of these</p> <p>4 recommendations have been changed because you guys have</p> <p>5 said you cannot make legislative changes. You could</p> <p>6 make suggestions to our committee to make legislative</p> <p>7 changes. So, anything -- I would just like to open the</p> <p>8 floor up for you guys, or open that dialogue up, that if</p> <p>9 you do have recommendations that you think could be</p> <p>10 legislative changes, we would be more than happy to take</p> <p>11 those on as we have a lot of commonality in what we're</p> <p>12 doing in terms of the veteran business space.</p> <p>13 Our report is due in December, and there's I'd</p> <p>14 say a number of topics that you guys are addressing that</p> <p>15 we are going to be making legislative recommendations</p> <p>16 for. So, I just wanted to put that out to your</p> <p>17 committee.</p> <p>18 MS. CARSON: Thank you for that. It's Barb.</p> <p>19 I would make one clarification, the members who</p> <p>20 could most efficiently do that would be our military</p> <p>21 organizations, VSOS. Thank you for that.</p> <p>22 The next meeting of the Advisory Committee on</p> <p>23 Veteran Business Affairs is December 7, here in SBA</p> <p>24 headquarters, and the next meeting of this body, the</p> <p>25 Interagency Task Force for Veteran Small Business</p>	132	<p>1 CERTIFICATE OF REPORTER</p> <p>2</p> <p>3</p> <p>4 I, Jen Metcalf-Razzino, do hereby certify that</p> <p>5 The foregoing proceedings were recorded by me and</p> <p>6 Reduced to typewriting under the supervision of For The</p> <p>7 Record, Inc.; that I am neither counsel for, related</p> <p>8 To, nor employed by any of the parties to the action in</p> <p>9 Which these proceedings were transcribed; and further,</p> <p>10 That I am not a relative or employee of any attorney or</p> <p>11 Counsel employed by the parties hereto, nor financially</p> <p>12 Or otherwise interested in the outcome of the action.</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18 _____</p> <p>19 JEN METCALF-RAZZINO, CER</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<b>A</b>				
<b>A.M</b> 1:13	61:18 65:8 68:9,13	128:22	<b>agree</b> 21:22,24	<b>America</b> 2:18,20
<b>abbreviated</b> 62:10	70:15,19 71:2,12	<b>admit</b> 101:13	24:17 25:12 30:24	3:10,12 4:10,22
<b>ability</b> 55:21	72:11 73:24 87:3	<b>admittedly</b> 23:9	43:6 78:8 82:7	15:14 26:19 97:7
<b>AbilityOne</b> 64:8,10	89:24 95:1,3 100:5	<b>adopt</b> 121:20	99:8,19 107:25	119:3
<b>able</b> 5:25 7:2 20:24	108:6	<b>advance</b> 24:15	116:14	<b>American</b> 6:1
20:25 28:21 47:21	<b>action</b> 26:10 29:14	<b>advertised</b> 38:17	<b>agreed</b> 21:14 68:23	107:10 129:1
57:20 78:25 80:3	30:16 32:5 69:23	<b>advisory</b> 15:7 34:23	<b>agreement</b> 20:14	<b>amount</b> 48:9 102:18
96:16 102:16	132:8,12	39:16 42:19 70:11	45:7 47:20 48:7	103:22 114:5
110:1 119:23	<b>actions</b> 43:16	77:9 112:9 130:22	50:5,12,15,17	<b>amplified</b> 41:25
127:3 129:11	<b>active</b> 18:15 23:13	<b>advocacy</b> 97:5	52:20 61:11	<b>Amy</b> 89:12,20,22
<b>Absolutely</b> 55:22	66:17 121:1	<b>advocates</b> 87:8,8,9	<b>agreements</b> 20:11	124:19
<b>academic</b> 111:22	<b>activities</b> 11:2 13:5	<b>Affairs</b> 3:25 34:23	20:12 46:14 55:20	<b>analysis</b> 24:10 33:9
<b>accelerators</b> 127:15	87:7 107:16	39:17 57:10,15	126:7	34:17 81:23 83:15
127:17	<b>activity</b> 21:9 88:9	61:19 112:9	<b>ahead</b> 4:4,16 34:21	83:22 85:14 86:5
<b>accept</b> 21:12 30:17	108:23	113:12 124:6	44:3 54:8 72:1	97:19 98:20 99:17
36:21 44:25 76:22	<b>actual</b> 95:4 118:4,6	129:19 130:23	73:9 75:23 110:3	103:3 109:22
78:18	<b>ACVBA</b> 129:21	<b>affect</b> 5:25	112:18 128:2	<b>analytics</b> 11:14
<b>acceptable</b> 21:9	<b>add</b> 25:17 55:9	<b>affiliation</b> 52:25	<b>Air</b> 120:9	<b>and/or</b> 18:15 19:11
25:19 83:10	76:25 77:18 78:19	<b>affirmative</b> 115:11	<b>AJCs</b> 77:4	<b>Andre</b> 82:10
<b>accepting</b> 44:20	81:17 82:5 109:6	115:13	<b>Aldevra</b> 4:6 65:20	<b>announce</b> 127:3
<b>access</b> 10:14 12:7,8	<b>addition</b> 5:9	<b>Afghanistan</b> 20:15	72:2 115:11	<b>announcement</b>
13:17 76:11 80:16	<b>additional</b> 8:9 35:16	<b>afraid</b> 20:4 39:18	<b>alert</b> 62:4	126:8
86:10	35:23 40:23	<b>agencies</b> 10:11,25	<b>align</b> 14:15	<b>annual</b> 111:23
<b>accomplishments</b>	104:21	14:15,15,20,21	<b>All-in</b> 4:20	<b>annually</b> 48:5
90:3	<b>Additionally</b> 122:14	15:16 17:1,12,18	<b>all-small</b> 46:24	<b>answer</b> 35:5 83:2
<b>accountability</b> 25:4	<b>address</b> 43:23 44:8	17:19 19:21 21:11	47:18 50:13 51:3	110:10,12
<b>accountable</b> 43:15	45:22 56:9 85:3	25:13 28:7 35:18	<b>allies</b> 15:6	<b>answered</b> 99:22
<b>accuracy</b> 17:9	103:13 104:9	45:17 69:11 78:12	<b>Allison</b> 4:20	<b>anybody</b> 89:9
<b>accurate</b> 16:9	109:25	78:15 79:9 86:4	<b>allow</b> 28:6 47:11	<b>anyway</b> 7:5,10 8:25
<b>achievable</b> 10:4	<b>addressed</b> 9:23 10:2	87:17,20 90:18	48:13 49:22 113:2	87:17
96:13	58:2 71:17 76:15	103:25 104:6	<b>allowed</b> 47:15 128:5	<b>apologies</b> 4:15
<b>achieve</b> 5:17 10:7	88:1	105:3 106:5 115:4	107:14	<b>apologize</b> 6:10 26:1
129:13	<b>addresses</b> 112:17	123:11 124:1	<b>allows</b> 3:7 11:20	<b>apparent</b> 105:10
<b>achievement</b> 14:18	<b>addressing</b> 130:14	130:2	12:10,11 41:11	<b>appeals</b> 58:4,5
<b>achievements</b> 89:4	<b>adjourned</b> 131:4	<b>agency</b> 12:18 13:23	51:20,22 52:17	<b>appear</b> 70:5
95:17	<b>adjust</b> 44:25 122:23	16:24 29:22 46:9	54:15 61:18 76:11	<b>applicants</b> 5:24
<b>achieving</b> 10:4	<b>administration</b> 1:4	48:19 51:8 57:18	<b>alter</b> 115:24	<b>application</b> 44:24
<b>acknowledging</b>	9:4 12:14 26:11	57:22 60:10,21,24	<b>alternative</b> 114:2	<b>applications</b> 44:20
104:16	32:21 34:12 43:23	95:16 101:14,16	<b>Amanda</b> 2:20 3:11	45:1 102:8
<b>acquisition</b> 14:14	69:21	<b>agency-led</b> 89:3	109:3 119:6	<b>applied</b> 65:9 67:24
62:1,11,14 65:4	<b>Administration's</b>	<b>agency-wide</b> 67:17	<b>Amazon</b> 122:24	74:13
71:21 87:7 88:9	6:5 56:8	<b>Agency/Veteran</b> 2:9	123:1	<b>applies</b> 51:4 63:24
95:21 103:17,19	<b>administrator</b> 4:19	<b>agenda</b> 36:18	<b>ambition</b> 102:18	64:6 66:11 69:7
121:24	6:6,10,18,21 7:14	108:21	<b>ambitious</b> 75:6	<b>apply</b> 50:4,15 60:17
<b>acquisitions</b> 103:8	7:16 9:5 34:9	<b>aggregate</b> 49:20	124:22	63:25 64:25 65:12
<b>act</b> 50:5 57:13 58:10	103:11 127:6	<b>agile</b> 86:25	<b>amended</b> 83:14	65:14 68:14 90:18
59:17 60:4,10	128:25	<b>ago</b> 35:9 68:8,11	<b>amendment</b> 58:25	<b>applying</b> 64:12,15
	<b>administrator's</b>	69:21 122:16		67:11

<b>appreciate</b> 4:1 9:4 36:17 113:10	<b>associate</b> 4:18	17:22 94:22,23	118:15 121:16	101:11 107:14
<b>approach</b> 43:7	<b>Association</b> 2:19	127:19	123:7 129:10	108:1 120:4
<b>appropriate</b> 25:2 27:12 50:7,12 105:2 108:21	3:12	<b>awardee</b> 117:14	130:18	<b>benefited</b> 49:7,8
<b>approval</b> 32:1,6 52:12 55:11 101:21	<b>attainment</b> 111:20 111:25 112:3,6	<b>awarding</b> 15:18 109:7	<b>Barb's</b> 81:17	<b>benefits</b> 33:9 34:17 36:22 48:7,14 57:13 58:10 59:17 61:18 83:15,16 97:20 109:8 119:18
<b>approved</b> 46:14 50:9 127:7	<b>attend</b> 121:7	<b>awards</b> 16:4,13,16 17:6,21 21:16 22:1 28:24 42:24 52:19 66:15 87:11 127:7 127:16	<b>Barbara</b> 2:5,21 127:12	<b>benefitting</b> 45:12
<b>approximately</b> 26:22	<b>attendance</b> 3:24 129:15	<b>aware</b> 78:20,22 95:10 103:21 110:12	<b>barrier</b> 10:3,18	<b>Bennett</b> 4:15,15,17 4:17
<b>area</b> 46:20 51:19 81:6	<b>attended</b> 62:17,21 126:1	<b>awareness</b> 10:14	<b>barriers</b> 10:9 29:4 76:1 79:20,22 80:14 82:12 84:5,6 84:12,19,25 85:5 85:19,24 96:23	<b>best</b> 29:11 43:11 45:20 107:14 112:21 121:11
<b>areas</b> 24:22 51:19 65:24 66:4 122:21	<b>attending</b> 54:2 56:12	<b>awry</b> 94:7	<b>base</b> 15:17 16:6,12 16:14,17,24 17:4 17:21 21:18,20 22:2,13,16 23:4,5 25:14 51:18,19,20 100:8 106:12	<b>better</b> 23:12 40:22 41:21 85:13 95:22 95:24
<b>arena</b> 5:25 29:14	<b>attention</b> 29:17 105:3 113:17	<b>B</b>	<b>based</b> 11:2 20:19,22 22:19 55:15 62:2,5 110:14 114:8 115:15	<b>beyond</b> 24:19 55:17 97:1 128:23
<b>argued</b> 58:9,17,21 59:15,22 60:14,18 61:23 65:14	<b>attorney</b> 132:10	<b>B</b> 38:8	<b>baseline</b> 80:9,11,12 80:13 81:13,17 82:1 83:23,25 84:11 85:15 93:6 106:25	<b>bit</b> 5:3 41:22 42:5,10 67:7 77:18 90:15 92:10 95:25 108:25 109:1 115:2
<b>areas</b> 24:22 51:19 65:24 66:4 122:21	<b>attorneys</b> 56:24 70:25,25	<b>back</b> 19:2 25:17 30:16 35:2 37:11 37:15 40:9 41:19 42:3 43:12 44:13 67:4,5 70:8 81:22 82:19,25 83:1 91:24 93:7 99:11 108:17 110:15 111:7,11,14 114:24 118:3,19 124:14	<b>basically</b> 17:15 27:9 36:7 39:2 43:3 46:5,17,19 47:17 51:17,20 52:3	<b>bidding</b> 66:6,7
<b>arena</b> 5:25 29:14	<b>auctioneer</b> 124:9	<b>bad</b> 12:4 116:25	<b>basis</b> 123:10	<b>big</b> 63:7
<b>argued</b> 58:9,17,21 59:15,22 60:14,18 61:23 65:14	<b>audit</b> 93:24	<b>Bainton</b> 2:20 3:11 3:11 109:3 119:6 121:5	<b>beginning</b> 29:20	<b>bigger</b> 72:22
<b>arguing</b> 74:2	<b>audited</b> 94:6	<b>balance</b> 33:21	<b>believe</b> 10:21 15:3 16:25,25 17:19 19:16,20 21:8 22:13 23:3 24:3 30:15,17 31:2 33:13 34:18 38:10 76:5,7 78:17 89:25 102:17	<b>Bill</b> 2:13 3:21 32:23 79:8 107:14 108:1 109:8 110:4 119:11 122:5
<b>argument</b> 56:13,18 58:2,23 59:13 61:2 61:4 62:2 68:1 69:9	<b>August</b> 44:19 51:2 51:10,11 122:8	<b>backlog</b> 128:12	<b>belong</b> 88:13	<b>Blair</b> 54:13
<b>Arlington</b> 3:15	<b>authority</b> 30:7 31:5 41:11,12 42:19 44:14,16	<b>badly</b> 102:7,11	<b>benchmarking</b> 14:12,19,22	<b>BLS</b> 109:24 110:1
<b>Army</b> 19:1	<b>authorization</b> 28:20	<b>badly</b> 102:7,11	<b>benchmarks</b> 14:13 14:13	<b>Blum</b> 2:15 14:10,10 15:2 24:3,3 32:13 32:14 38:20 39:1,5 39:10 69:19,19 71:14 86:13,14 87:23 88:16,19 90:6 103:9 113:21 113:21 116:2,21 117:8,24 121:15 121:16
<b>Ashe</b> 127:12	<b>automatically</b> 100:25	<b>Baird</b> 94:25	<b>beneficial</b> 78:19	<b>board</b> 32:18 33:13 34:1,2,4 39:13 41:25 42:20 89:25 100:16
<b>aside</b> 20:10 57:23 58:11,15,19 59:8 59:24 60:10 61:19 62:13 65:8,12 69:1	<b>availability</b> 109:24	<b>balance</b> 33:21	<b>benefit</b> 35:13 49:10	
<b>asked</b> 21:10 62:23 72:7 99:11	<b>available</b> 5:19 19:6 19:11 44:23,24 45:15 57:20 63:3 73:3 77:21 79:5 80:19 88:14 110:11 112:4 116:3 119:18 120:12 125:10,23	<b>Barb</b> 3:13 4:24 6:8 6:19 12:22 14:10 21:4 24:14 26:5 29:2 32:11,14 33:20 36:1,20 37:11,12,14 39:6 39:14 41:13 44:10 53:9 54:5,5 56:10 75:2 78:4 102:13 103:9 116:21		
<b>asking</b> 68:6 90:14 96:1 98:2,15 124:23	<b>avenue</b> 38:19 106:17			
<b>assess</b> 36:22	<b>avoid</b> 61:19 116:24			
<b>assessing</b> 95:16	<b>awaiting</b> 3:23			
<b>assessment</b> 89:3,17 97:23 100:15,20	<b>award</b> 16:13 21:25 28:21 41:11 42:25 43:5 59:19,20 60:1 95:23 102:10 127:4			
<b>assigned</b> 92:8	<b>awarded</b> 16:7,11			
<b>assistance</b> 27:6 35:23 41:8 50:3 76:1,10 79:5 111:2 122:19				
<b>assisting</b> 35:21				

<b>boards</b> 123:17	<b>Budget</b> 3:25 15:2 86:13 103:5	103:20 105:3,7,24 106:3,8,22 107:16 107:17 108:9 112:9,15 113:24 115:10 116:19 123:11 125:1,18 125:25 126:3,8,11 129:18 130:12,23 130:25	<b>care</b> 16:19 72:9 <b>Career</b> 4:14 <b>careful</b> 18:20 32:9 <b>Carson</b> 2:5,21 3:3 3:13,13,23 5:1 9:2 9:8 12:22 14:4 15:1,12 21:3 26:5 27:17 29:2 30:22 32:11 34:20 36:20 39:14 43:8 53:9,25 54:8 55:24 56:3,7 66:25 72:1 75:2,18 76:22 77:22 78:4 79:11,13,17 80:13 83:7 84:3 85:21 87:15 88:12,17,20 89:2,10,20 91:10 91:15 96:20 97:23 98:1,10,19,22 99:1 99:4,8,15 102:13 106:21 107:2,25 109:10 110:23 111:15 112:8 113:6,10,15 118:14,22 120:7 121:14 122:4 123:23 124:8 129:16 130:18	29:15 <b>centered</b> 53:11 <b>centers</b> 77:14 79:6,7 125:18 <b>centralize</b> 88:22 <b>CER</b> 1:25 132:18 <b>ceremony</b> 56:22 <b>certain</b> 10:1 16:13 104:6 <b>certainly</b> 25:24 32:25 34:15 41:25 42:15 65:18 73:14 81:18 90:4 98:5 <b>CERTIFICATE</b> 132:1 <b>certification</b> 53:17 97:10 98:7 101:22 101:25 102:4,20 114:20 <b>certified</b> 100:1 101:23 102:11,12 <b>certify</b> 45:25 97:14 97:21 132:4 <b>cetera</b> 73:4,4 100:13 100:13 <b>chain</b> 106:13,16 <b>chair</b> 39:16 <b>Chairman</b> 71:25 <b>challenge</b> 19:16 37:15 <b>challenges</b> 30:10 92:24 125:12,16 <b>challenging</b> 89:10 <b>Chamber</b> 111:18 <b>chance</b> 20:13,17 36:2 97:1 107:8 118:25 126:13 <b>change</b> 5:25 10:3,21 22:12 24:11,20 25:25 27:7 31:4,6 38:11 41:10,15 66:10 76:20 78:7 79:2 104:8 108:5 108:11 109:19,23 128:2 <b>changed</b> 30:13 49:21 130:4 <b>changes</b> 51:17 113:3
<b>bodies</b> 75:24	<b>build</b> 8:4 105:9 <b>building</b> 34:5 104:11 118:10,13 <b>built</b> 13:13,18,20 34:7 <b>Bullard</b> 4:5 <b>BULLARD-MAR...</b> 4:5 71:24 72:3 74:15,22 82:9,16 83:5 95:12 129:10	<b>businesses</b> 6:14 10:18 15:19 16:12 18:22 19:2,12 21:23 22:22 25:18 26:17 28:18 41:4,5 44:13,15,16 45:2 51:4 57:15,20 58:15 59:8,25 60:7 60:8,11,25 61:20 62:21 63:9,9 72:8 72:16,20 73:3 78:23 79:23 85:25 86:10,22 87:5,12 96:6 97:12 121:22 122:2	<b>case</b> 11:25 25:4 35:25 45:22 56:14 57:1,6,9,10,19,22 57:23 64:2,11,20 65:6,11,19 66:16 66:18,21 67:18 108:22 115:6 <b>cases</b> 47:10 55:16 56:16 58:9,24,25 60:16 64:1 66:19 <b>catching</b> 29:19 <b>categories</b> 43:18 57:19 <b>category</b> 57:23 <b>caution</b> 18:19 <b>caveat</b> 91:17 <b>CBE</b> 53:16 101:5,10 <b>Census</b> 110:25 111:23 <b>Center</b> 4:8 11:11	
<b>Boots</b> 6:23 7:1 76:25 125:25 126:7,11	<b>bullet</b> 11:18 <b>bumper</b> 125:25 <b>bunch</b> 117:19 <b>Bunker</b> 127:20 <b>burden</b> 52:19 62:12 86:8 87:21 <b>burdens</b> 85:20 86:3 122:1 <b>Bureau</b> 109:24 110:8 111:23 <b>business</b> 1:4,7 3:5 3:14,18 4:8,19 5:2 5:22 6:4,20,23 7:1 7:2 9:4 10:15 11:24 14:18 15:7 15:25 18:13,18 21:11,24 23:1,4 24:4,21 26:11,15 27:5 29:9,13,15,18 29:20 33:10,17 34:19,23 35:3,8 36:3,8 39:16 41:6 43:20,23 46:15,21 49:23 52:25 54:6 54:16,24 55:7 56:8 60:4,9 65:8 67:19 68:7,9 69:12,13,16 69:18 70:10,14,19 71:2,12 72:9,13,24 73:1,6,19,20,23,25 76:25 77:10,16 79:6 80:16 81:20 81:24 87:8 88:23 89:4,6,24 93:25 94:20 95:1 96:19 97:6 100:9 103:6	<b>businessUSA.gov</b> 76:16 <b>busy</b> 6:15 57:7 <b>buy</b> 72:6,19 <b>buyer</b> 47:14 <b>buying</b> 11:2 13:5 14:16 <b>BVA</b> 83:9		
<b>BOS</b> 50:10	<b>business</b> 1:4,7 3:5 3:14,18 4:8,19 5:2 5:22 6:4,20,23 7:1 7:2 9:4 10:15 11:24 14:18 15:7 15:25 18:13,18 21:11,24 23:1,4 24:4,21 26:11,15 27:5 29:9,13,15,18 29:20 33:10,17 34:19,23 35:3,8 36:3,8 39:16 41:6 43:20,23 46:15,21 49:23 52:25 54:6 54:16,24 55:7 56:8 60:4,9 65:8 67:19 68:7,9 69:12,13,16 69:18 70:10,14,19 71:2,12 72:9,13,24 73:1,6,19,20,23,25 76:25 77:10,16 79:6 80:16 81:20 81:24 87:8 88:23 89:4,6,24 93:25 94:20 95:1 96:19 97:6 100:9 103:6	<b>C</b> <b>C</b> 2:1 3:1 <b>calculated</b> 19:14 21:19 24:22 <b>calculation</b> 18:8 24:12 <b>call</b> 3:5 11:10,16 25:10 86:25 93:10 94:2 110:8 124:20 <b>Call/</b> 2:4 <b>called</b> 6:11 20:23 60:20 <b>capabilities</b> 87:2 <b>capital</b> 10:19 19:4 80:16 128:2		
<b>boss</b> 68:22 70:9 99:12 116:14				
<b>bought</b> 47:13				
<b>boundaries</b> 99:16				
<b>bounds</b> 53:7				
<b>brag</b> 37:16				
<b>breach</b> 104:15				
<b>break</b> 20:13 96:8,9 98:18				
<b>breakfast</b> 125:14				
<b>breaking</b> 86:24				
<b>Brian</b> 4:23				
<b>brief</b> 93:8 94:17 125:20				
<b>briefing</b> 113:20				
<b>briefly</b> 7:11 121:17				
<b>briefs</b> 70:18				
<b>bring</b> 39:3 41:9 87:18 121:8,11 129:1				
<b>bringing</b> 61:4 112:5 119:21				
<b>broad</b> 110:19				
<b>broaden</b> 14:17				
<b>broader</b> 41:22 42:1				
<b>broadly</b> 14:24 24:6 111:3				
<b>broke</b> 29:12				
<b>Brooklyn</b> 127:21				
<b>brought</b> 64:1,2,11 64:20				
<b>bubbled</b> 68:12				
<b>bucket</b> 107:3				
<b>bucketed</b> 43:18				

<p>113:4 130:5,7,10  <b>changing</b> 34:16  38:12 68:16  <b>charged</b> 118:23  <b>chart</b> 63:1,2  <b>check</b> 45:2 83:1  113:11  <b>Cherylynn</b> 4:7  <b>Chicago</b> 127:20  <b>chief</b> 6:5 9:3 56:20  <b>chime</b> 91:24  <b>choose</b> 45:19  <b>Circuit</b> 58:5  <b>circumstances</b>  64:14  <b>citation</b> 51:1  <b>cite</b> 74:6  <b>cities</b> 123:18  <b>Claims</b> 58:4 64:3  66:16  <b>clarification</b> 21:3  70:5 104:24  130:19  <b>clarified</b> 45:6 46:17  47:15 68:10 70:4  85:16  <b>clarify</b> 45:14 47:23  48:16 67:6,16 69:3  73:10 74:12  108:16 111:5  <b>clarity</b> 109:12 110:5  118:18  <b>class</b> 6:23 74:15  <b>classes</b> 15:17 19:10  26:2 127:11  <b>clause</b> 59:1 104:10  <b>clauses</b> 106:2  <b>clean</b> 8:12  <b>clear</b> 19:10,10 21:8  21:15 42:16 50:8  61:17 67:8 68:15  74:19 97:10 116:2  <b>clear-cut</b> 76:7  <b>clearance</b> 5:19  <b>clearly</b> 4:2 105:13  <b>close</b> 76:13 83:25  111:15  <b>closed</b> 9:23 10:2,13</p>	<p>80:1 97:7  <b>closes</b> 118:22  <b>closest</b> 7:7  <b>closing</b> 2:21 126:15  <b>closure</b> 10:24 51:18  87:16  <b>co-sponsorship</b>  126:16  <b>Coalition</b> 5:3 54:7  <b>cohesive</b> 112:5  <b>collaboration</b> 97:3  112:10 120:9  124:1  <b>collaborative</b>  120:19  <b>collateral</b> 112:16  <b>colleague</b> 27:22  89:12  <b>colleagues</b> 75:19  <b>collect</b> 17:11,13  <b>collectively</b> 49:16  <b>combine</b> 82:7 85:9  85:17,20 88:5  <b>combined</b> 5:14  <b>combining</b> 85:11  <b>come</b> 12:20 17:15  24:1 26:3 35:10  38:14 51:10 63:23  65:18,21 82:1,8  84:5,11,15 93:7,16  94:8 95:10 98:2  109:14 110:14  111:11 117:21,22  118:19 124:14  127:2  <b>comes</b> 7:4 23:8 26:7  40:23 67:8,12  112:2  <b>comfortable</b> 113:19  <b>coming</b> 8:3,18 20:22  40:1 41:18,19  72:14 76:24 89:25  92:15 125:7  126:24 129:12  <b>comment</b> 11:7 15:22  27:17 30:18 34:20  38:8 74:21 83:12  86:3 87:16 88:25</p>	<p>89:6 98:13 101:4  108:3,24 109:18  111:16 129:11,20  129:21  <b>comments</b> 2:21 15:9  32:12 76:20 81:17  96:20 98:22  107:20 113:6  118:14,20 119:2  129:9  <b>Commerce</b> 111:18  <b>commit</b> 4:11 15:5  39:15  <b>committee</b> 34:23  35:15,18,19 36:4  39:16 42:20 77:9  83:6 112:9 129:22  130:6,17,22  <b>committees</b> 31:13  112:11  <b>common</b> 8:13 52:16  <b>commonality</b>  130:11  <b>communicating</b>  19:17,21  <b>communities</b> 30:3  <b>community</b> 10:15  24:19 31:3,3 42:1  85:4 103:20 105:7  108:9 113:3 120:5  123:16,16,19  <b>companies</b> 12:8  19:4 22:21,24 27:6  78:21,24 86:20,22  92:21 106:7  <b>company</b> 13:18  22:25 43:2 47:12  54:20 100:2,8  116:17 117:11  <b>compare</b> 11:21,24  102:18  <b>compared</b> 98:3  102:21  <b>comparison</b> 11:16  98:3  <b>compensation</b> 101:1  112:14  <b>compete</b> 23:14</p>	<p>29:10 32:3,3,4,4,4  32:4 47:1 122:2  <b>competing</b> 116:19  127:19  <b>competition</b> 32:2  42:7  <b>complain</b> 35:10  <b>complaining</b> 91:20  <b>complaints</b> 94:20  95:4,9  <b>complete</b> 82:25  131:2  <b>completed</b> 5:14 8:24  43:17 83:3 85:14  105:17,22 129:6  <b>completely</b> 99:25  <b>complex</b> 23:6  <b>complexity</b> 33:23  74:20 86:19  <b>compliance</b> 94:2  115:8,8 122:1  <b>complicated</b> 103:17  <b>component</b> 79:3  <b>components</b> 34:7  <b>comprehensive</b> 24:5  <b>comprise</b> 16:6  <b>comprised</b> 113:25  <b>compromise</b> 25:9,19  <b>computed</b> 15:20  17:4 22:3  <b>computes</b> 16:14  <b>concept</b> 83:21  <b>concern</b> 30:12 51:23  54:18  <b>concerned</b> 10:19  17:24  <b>concerning</b> 16:5  66:1  <b>concerns</b> 16:1 27:5  50:23 60:8 72:24  89:16  <b>conclude</b> 125:4  <b>concluded</b> 125:21  <b>conclusion</b> 25:1  49:6 97:24 114:6  <b>conclusions</b> 57:25  <b>conclusively</b> 10:1  <b>concur</b> 99:4,17</p>	<p>106:19  <b>concurrency</b> 88:13  <b>conditions</b> 61:12  <b>conduct</b> 33:8 34:17  76:17 81:23 83:15  86:4 97:19  <b>conducted</b> 22:20  101:2  <b>conducting</b> 99:17  109:21  <b>conferees</b> 121:19  <b>conference</b> 19:1  110:7 117:19  129:12 131:3  <b>conferring</b> 70:10  <b>conflict</b> 23:24  <b>conflicting</b> 42:14  <b>confuse</b> 74:8  <b>confusing</b> 21:7  <b>confusion</b> 69:22  <b>Congress</b> 6:11 24:8  32:3 44:11,13 59:3  59:22,25 70:1 87:3  108:6 114:11,14  129:24 130:1  <b>conjunction</b> 30:4  <b>connected</b> 51:19  <b>Connecticut</b> 111:18  <b>connection</b> 120:13  <b>cons</b> 81:24  <b>consensus</b> 9:9 78:17  <b>consequence</b> 117:1  <b>consider</b> 14:9 48:20  <b>consideration</b> 14:18  15:8 114:3  <b>considered</b> 16:17  48:18 60:23  <b>considering</b> 36:17  64:10 115:22  <b>consistency</b> 125:22  <b>consultation</b> 122:23  <b>contact</b> 51:24  <b>context</b> 107:18  115:7  <b>contingency</b> 20:8  <b>continue</b> 30:10  47:18,21 48:14  51:12 77:8 80:6</p>
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82:3 96:22 118:16 119:13 122:18 123:6 126:24 128:8,18,18 129:2 <b>continued</b> 5:17 9:23 122:12 123:13 <b>continues</b> 88:21 122:11 <b>continuing</b> 51:13 115:18 118:1 126:15 <b>continuous</b> 104:19 <b>contract</b> 16:3,17,20 16:21,21,24 17:3,6 17:21 22:1,1 47:6 52:17,18 57:22 59:8,16 60:11,20 60:24,25 61:6,10 61:13 64:23 65:2 66:9,15 67:13 69:13 94:23 96:8 102:10 104:10 128:7 <b>contracting</b> 2:11 13:1 20:10 26:12 28:2,6,21 29:7 35:24 36:9 42:12 42:17 56:16 57:17 58:13 59:6 60:19 64:8 65:24 67:18 67:19 68:13 70:6 72:7,15,18 73:4,25 79:23 80:18,24 85:25 88:3,24 89:5 89:6 90:19,24 95:14,22 97:4 127:24 <b>contractor</b> 46:12 96:11 115:8 <b>contractors</b> 28:24 93:4,15 94:20 104:6,13,17 113:18 <b>contracts</b> 15:17,18 16:6,11,18 17:1 19:10 21:20,22 24:4 26:2 28:21 42:25 58:15,19	59:23,24 60:2 61:16 64:17,18 65:23 66:5,7 69:14 71:4,8,10 78:13,23 78:24 90:24 93:23 114:18 115:9 <b>contradict</b> 74:10 <b>contribute</b> 9:14 103:2 110:24 <b>contribution</b> 9:6 79:15 <b>contributions</b> 6:2 <b>control</b> 55:12,19 92:5 99:7 <b>controlled</b> 16:1 103:22 <b>controls</b> 55:9 69:7 104:11 <b>convention</b> 129:7 <b>conversation</b> 32:16 33:4,7 34:4 41:18 96:22 97:15 108:17 110:9,15 110:21 114:12 115:18 116:10,24 118:16 <b>conversations</b> 14:23 87:24 <b>convert</b> 13:22 <b>cooperative</b> 126:6 <b>coordinate</b> 88:22 <b>coordinated</b> 34:3 <b>coordinating</b> 53:16 <b>coordination</b> 76:2 79:20 96:23 110:7 <b>corporation</b> 53:5 <b>Corps</b> 4:21 <b>correct</b> 39:4 70:13 70:17 82:10 100:14 <b>correction</b> 55:23 <b>correctly</b> 24:7,23 32:23 <b>cost</b> 33:23 <b>couch</b> 37:19 <b>Council</b> 15:7 <b>counsel</b> 2:12 53:2 56:9,11 70:3,11,11	70:25 104:8,22 115:6 132:7,11 <b>counsel's</b> 24:9 70:23 <b>counseling</b> 107:16 <b>count</b> 95:17 127:14 <b>counterpart</b> 91:23 <b>country</b> 57:5 77:16 112:21 113:2 123:21 <b>counts</b> 32:1,6 <b>couple</b> 29:12 68:8 73:11 89:11 96:24 <b>course</b> 20:11 38:13 47:5,7 50:16 73:2 106:3 114:12 <b>court</b> 16:19 56:13 56:16,17,19,20,24 57:2,7,11 58:1,3,4 58:4,5,7,8,23,24 59:10,16 61:2,5,9 61:14,17 62:2,5,9 64:3,5,21 66:4,16 66:18,21 69:23 71:7 <b>courts</b> 58:18 <b>cover</b> 128:13 <b>craft</b> 34:11 43:10 <b>Craig</b> 3:17 25:7 36:1 41:13 79:3 81:16 108:16 <b>create</b> 26:15 44:14 44:16 59:4 76:10 85:2 87:4 93:1 108:1 115:12 <b>created</b> 44:11,12 52:17 <b>creating</b> 33:9,22 35:3 116:7 <b>creation</b> 34:19 76:15 83:17 107:16 112:15 113:24 <b>credence</b> 33:18,18 <b>cringe</b> 120:15 <b>criteria</b> 109:14 114:15,16 117:1 117:10 <b>criticized</b> 62:2	<b>criticizing</b> 61:3 <b>cross</b> 120:20 <b>cross-fit</b> 6:21 7:8 <b>crossed</b> 121:20 <b>culpability</b> 104:16 <b>current</b> 30:7 38:16 80:17 109:20 116:14 118:9 <b>currently</b> 24:25 25:14,21 39:17 46:16 85:23 105:24 118:12 <b>curricula</b> 76:25 77:19 78:2,8 <b>curriculum</b> 77:25 85:6 122:20 126:12 <b>cyber</b> 86:21 103:7 103:14,18 <b>cycle</b> 29:20 78:5,7 94:5	106:25 110:15 112:24 118:19 123:25 127:9 129:4 130:13,23 131:1 <b>decent</b> 96:21 126:4 <b>decide</b> 10:1 46:24 48:13 <b>decided</b> 81:22 <b>decision</b> 2:12 16:19 34:25 43:25 51:13 58:1 59:11 62:15 62:18,24,24 63:24 65:19 66:9 67:9 68:1,10,17 70:13 95:20,21 128:1 <b>decisions</b> 9:10 95:23 <b>declared</b> 51:20 <b>declining</b> 35:25 <b>deconflicting</b> 105:7 <b>deeper</b> 92:10 <b>default</b> 128:13,15 <b>Defense</b> 3:20 4:13 11:22 18:8 68:19 81:5,9 106:4 <b>deferring</b> 116:23 <b>define</b> 11:20 84:21 <b>defines</b> 66:9 <b>definitely</b> 27:24 35:13 44:23 54:3 108:5 <b>definition</b> 61:6,7 <b>definitively</b> 116:5 <b>degrees</b> 65:19 <b>deliver</b> 18:14 126:7 <b>deliverables</b> 43:13 124:23 <b>demo</b> 13:11 <b>demoed</b> 14:20 <b>demonstrate</b> 87:1 <b>denied</b> 50:1 <b>Dennison</b> 54:5,6,9 55:22 <b>denominator</b> 22:16 25:11 <b>department</b> 3:19,21 3:24,25 4:13 11:10 11:16,22 12:13,18
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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**D**


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**D** 3:1**D.C** 124:2**dancing** 19:12**data** 11:14,14 12:11

17:11,13,13 49:12

91:18,19 92:3,4,11

92:14,16 99:7

106:10 109:24,25

110:1,1,11 111:21

112:4,5 124:25

126:18

**date** 8:7 121:6**dates** 98:18**Dave** 53:19**day** 6:19 34:24 45:4

56:18,25 57:6,7

60:5

**DCMA** 93:25**DD-214** 100:24**deal** 16:5 96:19**dealing** 71:3**deals** 71:4**debarment** 50:6**December** 14:8

36:23 39:15

18:8 23:6,12 31:22 37:16 57:9,15 61:18 68:19 71:1 76:24 81:5,9 100:23 102:9,9 106:4,8,11 107:5 109:18 111:6 112:12 113:12 122:5,19 129:19 <b>departments</b> 15:16 25:13 <b>deputy</b> 7:14,16 103:10 <b>Derek</b> 4:9 <b>derived</b> 90:16 <b>describe</b> 39:21 <b>described</b> 14:14 <b>describing</b> 38:22 39:6 <b>description</b> 44:3 <b>designate</b> 73:23 <b>designed</b> 13:18 103:24 <b>designs</b> 10:17 <b>desire</b> 88:7 <b>desiring</b> 93:9 <b>detail</b> 95:25 126:5 <b>details</b> 74:23 129:3 <b>determination</b> 50:11 64:15 101:2 <b>determine</b> 25:21 74:25 83:22 <b>determined</b> 8:6 66:23 100:14 <b>develop</b> 11:1 38:21 91:25 97:9 104:10 112:16 <b>developed</b> 11:10 14:12 20:23,25 46:4 47:1 <b>developing</b> 27:4 34:3 111:20 <b>development</b> 1:7 3:5 3:14,18 5:22 11:5 24:4 26:12,15 29:13 33:10,17 34:19 35:3,8 36:3 37:19,21 38:3 41:6	46:15 77:10 78:11 79:7 80:16 81:20 81:24 83:17 84:24 85:2 87:1 97:6 127:5 131:1 <b>developments</b> 127:2 <b>devices</b> 16:14 <b>DFAR</b> 106:2 <b>DHS</b> 51:8 <b>dialed</b> 91:24 <b>dialogue</b> 130:8 <b>dictionary</b> 61:6 64:23 65:1 <b>died</b> 56:19 <b>Diego</b> 127:22 <b>difference</b> 42:11 73:16 <b>differences</b> 23:21 <b>different</b> 34:8 38:19 43:18 71:6,11 73:21 77:19 87:19 89:11 90:22 92:23 109:1 113:23 119:19,20 123:17 126:13 128:10 <b>differently</b> 12:6 84:9 <b>difficult</b> 45:11 49:11 <b>digested</b> 105:6 <b>digging</b> 92:10 <b>digital</b> 86:20 <b>digress</b> 118:3 <b>direct</b> 28:24 41:11 42:24,25 43:5 51:15 109:20 <b>directed</b> 24:8 <b>direction</b> 32:10 40:3 81:15 85:10 96:17 <b>directly</b> 90:25,25 91:18 119:11 130:1 <b>director</b> 34:10 <b>disability</b> 99:22,23 <b>disabled</b> 100:12 <b>disadvantaged</b> 26:16 27:9 33:11 83:18 <b>disagree</b> 27:21	31:15 <b>disagreement</b> 22:5,6 23:20 <b>disaster</b> 6:13 9:6 51:21 <b>discharged</b> 100:19 <b>discourages</b> 32:7 <b>discovery</b> 25:11 <b>discretion</b> 45:19 47:7 73:25 <b>discuss</b> 29:5 65:16 70:12 78:13 108:20 <b>discussed</b> 71:16,23 83:9 98:11 105:22 114:15 <b>discussion</b> 10:24 18:20 26:20 28:14 34:3 40:25 43:17 52:4 53:10 64:19 65:22 66:3 73:21 74:18 81:20 90:23 101:8 118:7 128:10 <b>discussions</b> 18:25 68:8 119:21 123:10 <b>disparate</b> 41:8,23 <b>dissent</b> 57:4 <b>distinct</b> 60:20 <b>distinctions</b> 65:24 <b>distinguishes</b> 71:10 <b>distribute</b> 113:1 <b>distribution</b> 73:16 <b>distributors</b> 73:20 <b>district</b> 50:10 <b>DIUx</b> 81:7 <b>diverse</b> 23:6 <b>document</b> 32:1 35:2 104:9 <b>documents</b> 53:3 <b>DoD</b> 2:14 11:8 14:7 16:10 18:5 36:10 42:17 51:8 72:6,16 73:8 79:10 82:12 89:8 92:7 93:22 99:3,17,24 101:6 102:8,25 105:16	105:23 106:2 107:21 108:2 110:25 111:1 113:8 125:15 126:22 <b>DoD's</b> 16:12 94:24 <b>Dodds</b> 2:10 44:3,10 52:13 54:3 55:4 56:4 69:4 <b>doing</b> 6:18 12:3,3,5 12:6 14:21 19:12 32:19 33:21 35:9 36:2 38:15 39:9 41:14 42:23,24 45:12 47:3 49:16 81:3,25 85:1 91:6 93:21 94:9,16 98:12 104:4 106:7 119:12 120:22 121:3 124:21 130:12 <b>DoL</b> 2:13 79:8,10 109:23 <b>dollar</b> 60:11 61:24 62:7 72:25 <b>Dominion</b> 4:8 <b>double</b> 83:1 <b>Doug</b> 7:14,16 <b>Dr</b> 105:18 106:24 <b>draft</b> 43:9 78:2 83:12 98:15 114:13,14 <b>drawback</b> 33:17 <b>drawbacks</b> 33:9 34:17 36:22 37:2,3 37:4,5 83:16 97:20 <b>drive</b> 40:3 <b>driver</b> 81:21 <b>driving</b> 81:6 <b>dropped</b> 99:18 <b>due</b> 7:20 111:10 130:13 <b>duty</b> 18:15 23:13 100:13 121:2	<b>earlier</b> 57:2 58:24 72:15 80:4 83:9 95:15 97:15 108:17 109:2 <b>early</b> 8:22 <b>earned</b> 35:13 <b>ease</b> 52:19 76:10 <b>easiest</b> 84:6 <b>easily</b> 105:6 <b>easy</b> 41:19 <b>easy-to-flow</b> 63:2 <b>EBV</b> 111:18 <b>Econ</b> 111:17 <b>economic</b> 111:3,20 112:6 <b>economically</b> 26:16 27:9 33:10 83:18 <b>economy</b> 129:1 <b>edit</b> 106:22 <b>education</b> 4:14 107:15 120:12 <b>Edward</b> 4:21 <b>effect</b> 10:21 71:9 <b>effective</b> 44:19 51:2 51:16 <b>efficient</b> 97:10 <b>efficiently</b> 130:20 <b>effort</b> 7:20 78:7 99:18 109:20 118:24 <b>efforts</b> 42:1 86:23 123:15 <b>eight</b> 57:12 <b>either</b> 24:15 25:3 34:7 53:20 56:22 60:22 69:13 78:6 91:12 95:8 100:18 107:24 <b>election</b> 125:5 <b>electronic</b> 44:24 <b>electronically</b> 44:21 <b>element</b> 92:8 <b>elements</b> 62:6 63:7 64:24 87:18 89:14 98:3,14,19 102:23 <b>elevate</b> 88:10 <b>eligibility</b> 51:18 <b>eliminate</b> 116:18
------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------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## E

E 2:1 3:1,1  
e-book 123:1



117:11 <b>eliminating</b> 115:19 116:16 <b>elimination</b> 117:3 <b>else's</b> 69:15 <b>email</b> 5:6 44:7,8 75:14 <b>emergency</b> 62:4 <b>emerging</b> 87:5 103:7,13,17 121:22 <b>employed</b> 114:21 132:8,11 <b>employee</b> 40:13,14 47:24 100:4 115:25 132:10 <b>employees</b> 45:9,10 77:13,17 114:22 <b>employers</b> 77:17 <b>employing</b> 117:2 <b>employment</b> 3:22 109:22,23 113:17 114:20 120:12 122:20,25 <b>enacted</b> 95:3 109:15 128:4 <b>encapsulates</b> 91:12 <b>encompass</b> 59:17 <b>encompasses</b> 37:22 38:3 <b>encourage</b> 78:12 129:15 <b>encourages</b> 77:2 <b>encouraging</b> 119:8 <b>end-of-year</b> 124:25 <b>endorse</b> 114:11 <b>enforce</b> 90:20 <b>enforcement</b> 93:20 93:21 <b>enforces</b> 93:17,18 <b>engaged</b> 70:3,4 <b>engagement</b> 6:7 123:16 129:18 <b>Engineering</b> 127:21 <b>ensure</b> 5:5 15:16 25:20 29:8 125:22 127:18 <b>entire</b> 7:4	<b>entities</b> 86:11 114:8 <b>entity</b> 46:6,9,12 48:21 52:8,8,12,23 <b>entity-owned</b> 50:23 <b>entrants</b> 121:22 <b>entrepreneurial</b> 126:19 127:5 <b>entrepreneurs</b> 10:9 13:2 77:9,20 125:8 125:11,13 128:25 <b>entrepreneurship</b> 7:5 76:12 77:1 78:11 79:4 120:12 120:23 125:17 126:25 <b>entry</b> 10:9,19 <b>environments</b> 20:8 <b>equivalent</b> 36:7 <b>era</b> 126:13 <b>especially</b> 10:9 122:21 125:23 <b>ESRS</b> 91:18 92:23 <b>essentially</b> 16:20 <b>establish</b> 37:1 52:6 81:13 96:13 97:13 98:6 <b>established</b> 16:2 97:22 100:10 <b>et</b> 73:4,4 100:13,13 <b>evaluate</b> 17:13 <b>evaluating</b> 30:5 115:7 <b>evaluation</b> 117:3,9 <b>evening</b> 5:3 53:10 <b>event</b> 53:14 121:1 125:22 <b>events</b> 126:20 <b>eventually</b> 70:1 <b>everybody</b> 6:9 7:12 7:15,18 8:15 38:8 39:19,19 117:21 120:16 <b>evidence</b> 53:3 <b>evolve</b> 92:25 <b>ex-service</b> 112:14 <b>exact</b> 41:14 43:8 <b>exactly</b> 8:11,13 16:6 16:23 17:3 19:5	41:2,9 43:14 72:14 83:16 118:18 <b>exam</b> 101:2 <b>examine</b> 37:4 113:16 <b>example</b> 11:21 16:7 18:4,10 20:19 24:10 29:16 32:22 33:6 60:21 64:8 68:18 73:9 74:12 80:20 86:23 89:15 92:13 96:2 100:15 115:11 120:9 <b>examples</b> 73:12,14 74:5 123:9 124:3 <b>Excellence</b> 11:11 <b>excellent</b> 14:17 108:15 <b>exception</b> 52:17 61:17 122:12 <b>exceptions</b> 105:12 <b>excited</b> 94:24 <b>exclude</b> 21:11 114:8 <b>excluded</b> 15:17 16:12 25:14,17,21 25:22 26:3,3 <b>excluding</b> 17:20 <b>exclusion</b> 20:5,6,6 23:22,23 25:3 <b>exclusions</b> 18:7 20:7 <b>exclusively</b> 72:12,23 <b>executive</b> 86:5 103:24,24 <b>exemplars</b> 125:11 <b>exist</b> 11:6 19:8,15 22:21,23 30:6 37:23 38:6,17 39:17 40:8 80:25 84:25 96:6 <b>existence</b> 46:22 <b>existing</b> 30:4 39:24 60:25 76:11 103:7 112:17 113:16 <b>exists</b> 12:25 22:20 <b>expand</b> 75:25 76:9 <b>expands</b> 51:18 <b>expansion</b> 29:15 121:25	<b>expect</b> 5:19 <b>expectation</b> 59:3 <b>expected</b> 104:9 <b>expensive</b> 13:19,22 <b>experience</b> 48:17,21 48:25 <b>expert</b> 14:7 <b>experts</b> 74:9 <b>explaining</b> 21:5 <b>explore</b> 109:24 112:13 116:7 <b>Express</b> 128:7 <b>expressed</b> 103:11 <b>extend</b> 48:4 <b>extension</b> 48:12 <b>extent</b> 104:7 <b>external</b> 66:11 <b>extra</b> 122:22 128:12 <b>extremely</b> 106:9 <b>eye</b> 87:21 <hr/> <b>F</b> <hr/> <b>face</b> 70:19 <b>fact</b> 12:7 28:9 33:16 54:23 66:18,21 71:1 90:17 104:15 105:5 112:20 114:8 <b>factor</b> 114:15,16 117:3,3 <b>facts</b> 6:12 62:3 <b>fair</b> 57:21 103:22 114:5 <b>fairly</b> 63:2 76:7 <b>fallen</b> 10:20 <b>falls</b> 18:5 <b>familiar</b> 28:3,4 54:1 <b>familiarize</b> 77:2 <b>Families</b> 126:18 <b>fantastic</b> 7:25 <b>far</b> 10:19 12:18 18:9 20:5,5,7 23:22 25:16 29:25 37:20 45:16,21 55:17 60:14 61:7 64:3,24 67:9,9 70:3,6,11 70:25 73:22 86:19 104:8,10 115:6	117:22 <b>fashion</b> 8:24 <b>fast</b> 128:4 <b>faster</b> 107:7 <b>favorably</b> 28:17 <b>feature</b> 28:23 <b>February</b> 56:12 <b>FedBizOpps</b> 60:21 <b>Federal</b> 10:10,11 12:2,5,18 13:9 14:11,22 15:15 25:13,22 30:2 53:11 56:15 57:13 58:4,5,12 59:17,21 60:17,19 64:3 65:24,25 66:4,10 66:16 67:14,18 76:19 86:6 87:6 88:24 90:18 97:4 97:12 101:14,16 101:18 103:8 106:5 112:22 113:4,18 121:23 123:11,12 <b>Federal-Wide</b> 13:25 <b>fee</b> 128:5,19 129:2 <b>feedback</b> 76:8 85:21 108:24 119:1 127:14 <b>feel</b> 29:7 79:14 105:25 109:4,11 <b>feeling</b> 40:7 101:10 <b>feels</b> 109:10,11 <b>fees</b> 128:11,14 <b>feet</b> 87:5 121:23 <b>fellows</b> 109:13 <b>Ferguson</b> 57:6 <b>fight</b> 86:21 <b>figure</b> 8:11 12:6 17:20 33:4 36:13 40:24 42:23 90:13 93:6 <b>figured</b> 81:10 <b>figuring</b> 119:17 <b>filed</b> 95:10 <b>fill</b> 56:17 <b>filter</b> 36:2 <b>final</b> 5:18 44:18
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51:15 76:2 107:3 129:9,11 <b>finalize</b> 127:7 <b>finalized</b> 105:8 <b>finally</b> 26:10 29:22 113:11 <b>financially</b> 132:11 <b>financing</b> 107:17 <b>find</b> 10:8 12:2 29:4 50:11 59:1 63:4 65:20 77:12 78:10 79:22 80:7 81:1 84:18 85:23 88:10 95:2 110:19 112:3 120:17 121:2 <b>finding</b> 9:9 61:5,22 111:11 119:16 <b>finds</b> 57:18 <b>fine</b> 14:3 25:23 26:4 91:9 <b>fingers</b> 121:19 <b>firm</b> 46:24 54:16 55:8 114:22,23 <b>firms</b> 35:20 51:21 113:25 <b>first</b> 6:20 7:12 8:1 9:9 15:10 18:3,4,5 20:15 21:13 24:17 32:12 38:6 44:11 56:15,18 58:2,9 59:9,15 61:3,4 63:7 68:8 76:9 80:22 81:13 101:12 104:17 105:13 109:19 117:23 118:17 124:20 126:18 127:15 <b>fiscal</b> 5:14 16:4 40:1 43:9,14 80:7 83:12 91:13 98:13 107:20 118:17 124:21 128:19 <b>fits</b> 113:4 <b>five</b> 37:24 38:4 95:9 <b>five-page</b> 35:2 <b>fixed</b> 70:1 <b>flesh</b> 71:15	<b>Fletcher</b> 4:16,18,18 <b>flew</b> 95:7 <b>flexibilities</b> 87:11 <b>floated</b> 114:3 <b>flood</b> 6:16 <b>flooding</b> 6:14 <b>floor</b> 116:7 130:8 <b>flow</b> 30:13 63:1 <b>focus</b> 87:6,13 88:5 92:9 122:18,21 123:20 127:11 <b>focused</b> 60:9 88:2 90:21 95:13 110:20 119:9,22 125:5 127:16,17 <b>folks</b> 8:19 11:9 14:22 23:3 24:4,10 33:3 69:21 115:6 122:23 123:3 <b>folks'</b> 86:14 <b>follow</b> 54:1 68:3 70:7 85:15 <b>footsteps</b> 68:3 <b>footstools</b> 38:4,4 <b>force</b> 1:6 3:4 5:15,22 7:21 9:20 20:14 27:12,13,23 39:13 75:7,22 87:25 88:11 96:1,3 101:15 103:1,10 105:1,19 113:25 129:14 130:25 <b>forces</b> 20:11 <b>forecasting</b> 20:23 <b>foregoing</b> 132:5 <b>foremost</b> 104:18 <b>forget</b> 74:1 <b>forgetting</b> 117:21 <b>forgive</b> 10:16,21 <b>form</b> 22:15 37:19 52:5 53:6 89:14 <b>formal</b> 50:11 <b>formats</b> 123:2 <b>former</b> 7:14 47:24 <b>forth</b> 18:23 38:12 73:15 84:13 <b>forward</b> 8:13 9:11 10:8,25 63:22	71:18 75:22 86:7 87:19 92:25 96:21 102:23 105:10 118:3 126:4 <b>found</b> 10:3 36:12 40:12 55:13,18 57:11 60:16 61:9 62:5 65:11 86:23 121:2 <b>Foundation</b> 4:12 126:18 <b>four</b> 10:11 11:12,13 38:4 107:5 127:4 <b>fourth</b> 11:14 <b>FPDS</b> 36:12 92:11 92:14 <b>FPDS-NG</b> 92:17 <b>fractions</b> 96:7 <b>fragmented</b> 112:4 <b>frame</b> 98:12 124:22 <b>Francisco</b> 7:18 <b>frankly</b> 52:6 <b>free</b> 105:25 123:3 <b>friend</b> 33:14 <b>Fronabarger</b> 4:9,9 <b>front</b> 10:5 25:10 90:2 117:18 128:11 <b>frustrated</b> 34:1 <b>FSA</b> 73:5 <b>full</b> 60:23 74:6,20 <b>full-blown</b> 47:4 <b>Fuller</b> 3:15,15 <b>fully</b> 37:20 73:13 74:18 125:5 126:19 <b>function</b> 39:13 <b>fund</b> 40:24 <b>fundamental</b> 22:5,6 <b>funded</b> 40:20,21 102:5 <b>funds</b> 13:14 81:8 107:15 <b>further</b> 26:19 30:16 42:5 63:23 64:6 71:22 72:18 98:12 98:18 104:23 107:18 110:17	113:16 132:9 <b>future</b> 20:22 32:16 32:20 34:12 123:25 <b>FY</b> 7:23 8:12,16,16 8:17,23 <b>FY14/15</b> 2:6 <b>FYI</b> 74:16 79:1 92:5 <hr/> <b>G</b> <hr/> <b>G</b> 3:1 <b>Galvin</b> 105:18 106:24 <b>GAO</b> 49:9 64:11 65:6,11,13,19 67:23,25 69:23 <b>GAO's</b> 65:20 <b>gaps</b> 39:21 109:25 <b>Garcia</b> 89:12,22,22 90:8 92:6 <b>geared</b> 86:19 <b>general</b> 2:12 21:12 30:8 53:2 56:9,11 104:2 <b>generalities</b> 85:2 <b>generally</b> 128:10 <b>Generation</b> 114:18 <b>generations</b> 125:9 <b>gentleman</b> 75:1 <b>getting</b> 10:25 30:13 34:1 40:9 43:14 44:21 47:25 48:6 49:8 57:4 58:6 78:9 98:11 126:2 <b>GI</b> 107:14,25 109:8 119:10 <b>give</b> 13:15,17,19 19:9 31:16 35:1,5 38:8 54:16,19 71:15 75:23 85:14 89:18 106:20 114:24 118:4,25 123:14 124:9 <b>given</b> 25:1 37:7,8 104:25 113:17 <b>gives</b> 73:25 <b>giving</b> 33:18 89:19 117:10	<b>gladly</b> 120:5 <b>Glowacki</b> 4:21,21 <b>go</b> 4:4,16 8:12 15:6 18:3 22:25 23:1 31:17 32:12 33:25 34:20 38:18 40:3 42:20 43:12 44:11 45:4 46:3 48:3 50:2,21,22,25,25 52:18 54:8,11 55:17 64:14 67:2 68:20 70:8 72:1,9 73:5,9,24 75:25 81:13 82:19,25 83:1 84:22 85:10 92:25 95:8 96:1,9 96:16,18 100:6,17 102:8 106:16 110:3,17 111:7 112:18 119:1 124:15 126:9 <b>goal</b> 8:2 12:24 15:18 15:25 19:13 24:25 27:12 78:5 83:25 90:4,11 91:8 93:3 95:13 117:22 <b>goaling</b> 24:21 <b>goals</b> 5:17 24:13 42:14,23 58:13,14 58:20,21 59:4,7 89:5 93:16,18 95:24 96:3,13 129:14 <b>goes</b> 24:19 37:15 60:21,25 63:2 64:4 91:18 92:23 97:15 100:2 106:16 108:16 120:17 <b>going</b> 6:6 8:14 9:8 9:12 10:6 11:6 14:4 15:12,21 18:24 19:7 20:1,9 21:3 22:16,18 27:21 30:24 32:12 36:16,18 37:11 40:24 41:3,20 42:3 43:10,20 44:22 45:3,23,24,25 46:6
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------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47:3,10 48:5,8,12 48:22,24 49:6,13 50:15,21 51:3 53:13 54:25 63:8 63:10,13,14,18,21 67:1 68:3 69:10,17 70:7 72:17 73:1,9 75:14,21,23 78:14 81:23 85:1,5,19,22 86:2 88:21 89:12 89:20 91:8 92:24 93:1,1,13 97:8 99:2,16,18 102:23 103:19 104:7 106:15,15 108:10 109:17 113:11 114:11,24 119:7 121:6 122:4 124:5 124:8,10 125:3 126:23 127:4 128:4,13 130:15 <b>good</b> 4:16,24 27:20 39:12,13 40:13 78:15 84:23 87:12 87:24 88:10 92:4 109:10 118:14 120:6 122:16 123:20 <b>gotten</b> 19:20 <b>government</b> 2:11 6:25 12:2,5 13:9 13:23 19:20 24:4 25:22 26:11 35:24 42:24 43:25 45:20 46:4 56:15 57:9 59:12,15,22 60:3,8 60:14,18 61:4,23 61:25 65:25 66:10 66:22 67:14,18 76:12 79:24 86:1 88:24 90:24 101:14,18 102:6 102:22 104:18 128:12 <b>Government-own...</b> 13:21 <b>government-wide</b> 11:1 14:13 15:25	16:25 36:11 97:14 97:21 98:7 101:8 101:16,21 <b>grab</b> 90:6 <b>graduates</b> 30:1 <b>grant</b> 78:6 126:15 126:19 <b>granted</b> 36:1 <b>grants</b> 127:5 <b>grateful</b> 118:23 121:13 126:16 <b>great</b> 16:5 77:12 80:15 83:5,6 88:19 93:16 109:13 110:18 122:7,13 124:3 125:11 <b>greater</b> 25:3 87:2,6 87:13 120:6 <b>greener</b> 7:17 <b>group</b> 9:17 13:6 37:20 106:20 109:4 112:2 116:4 118:13 <b>groups</b> 19:22,22 37:8,9 40:9 97:5 106:6 125:12 <b>grow</b> 11:13 36:16 77:12,21 <b>growing</b> 123:18 <b>growth</b> 43:19 76:1 79:20 80:10 96:23 120:25 <b>GSA</b> 4:19 51:8 59:18,20 60:2 61:1 61:8,9,13,19,23 62:7,9,10,13 64:6 65:3,9,12,18 67:20 68:4,14 70:11 72:10,17,19,21 79:13 91:22,23,25 92:7,11,13 124:6 <b>Guard</b> 126:14 <b>Gudger</b> 82:11 <b>guess</b> 25:10 33:1 70:18 95:13 <b>guessing</b> 33:3 <b>guidance</b> 69:5,17 104:9	<b>guys</b> 35:1,10 102:10 130:4,8,14 <b>gym</b> 6:21,24 7:8 <hr/> <b>H</b> <hr/> <b>half</b> 7:18 <b>Halloween</b> 8:23 124:24 125:3 <b>hand</b> 80:6 84:22,22 88:7 <b>Handbook</b> 123:1 <b>handle</b> 84:7 <b>handled</b> 104:3 <b>handouts</b> 105:23 <b>happen</b> 22:11,18 30:9 74:25 108:14 126:17 <b>happened</b> 57:5 82:18 94:8 <b>happening</b> 123:21 124:3 125:5 126:3 <b>happens</b> 39:7 66:14 66:15 <b>happy</b> 35:17 39:10 109:15 121:12 130:10 <b>hard</b> 5:17 9:8 79:25 81:6 119:17 120:18 128:3 <b>harmed</b> 18:22,23 <b>Hawaiian</b> 51:22 <b>head</b> 36:5 74:24 116:22 <b>heading</b> 81:14 <b>headquarters</b> 130:24 <b>healthy</b> 32:15 <b>hear</b> 4:24 5:1 9:17 10:6 24:23 94:12 94:20,24 119:14 121:12 <b>heard</b> 16:4,7,9 17:19,23,24 32:23 32:23 37:10 57:6 59:18 65:7 <b>hearing</b> 5:4 6:15 9:18 36:4 37:23 62:18,22,25 66:4	67:15 70:8 91:1,4 <b>Heilman</b> 3:17,17 25:7 41:17 79:2 81:16 83:20 85:10 108:15 <b>held</b> 62:18 <b>help</b> 6:25 11:1 14:17 22:16 30:15 41:3 46:4 52:22 77:16 78:25 86:21 89:9 91:7 95:22,23,24 96:12,19 103:5 105:17 106:23 108:9 120:6 121:24 122:23 <b>helped</b> 121:1 <b>helpful</b> 24:14,16 32:19 86:20 90:7 105:1,2,15 120:13 <b>helping</b> 14:15 27:9 78:21,23 85:6 <b>helps</b> 95:21,22 96:4 <b>hereto</b> 132:11 <b>hey</b> 38:2 40:10 54:5 105:16 <b>Hickey</b> 4:20,20 <b>highlighting</b> 87:14 <b>highly</b> 117:12,14 <b>Hill</b> 22:8 27:16 31:14 32:24 34:25 82:22 99:10,11 <b>hire</b> 77:13 <b>hiring</b> 77:12 115:13 118:7 <b>history</b> 90:16 <b>hit</b> 36:5 <b>homeowners</b> 6:13 <b>honest</b> 99:13 <b>honestly</b> 20:19 <b>hope</b> 127:25 <b>hoped</b> 127:3 <b>hopefully</b> 111:8 <b>hoping</b> 8:10,18,21 87:3 <b>host</b> 20:14 <b>hosted</b> 129:18 <b>hour</b> 44:22 75:24 <b>House</b> 129:24 130:1	<b>HUBZone</b> 18:12 47:9 49:21,23,24 51:18,21,23 60:7 69:24,25 114:10 <b>HUBZones</b> 44:15 49:25 <b>huge</b> 42:10,11 <b>human</b> 77:4,11 <b>hung</b> 91:23 <b>husband</b> 121:1 <hr/> <b>I</b> <hr/> <b>IATF</b> 2:4,6,7,8 15:14 <b>ice</b> 72:6,8,17,19,21 73:17,19,20 74:16 <b>idea</b> 15:3 35:1,11 75:23 77:7,18 89:8 89:19 92:13 95:13 101:15 <b>ideas</b> 24:2 <b>identifiable</b> 104:1 <b>identify</b> 76:17 83:19 84:4,12 104:14 <b>identifying</b> 85:5 114:21 <b>II</b> 125:10 <b>immediately</b> 14:2 105:10 <b>Immunizations</b> 18:17 <b>impact</b> 2:12 24:18 43:25 55:2 56:9 71:18 75:16 105:3 114:25 128:1 <b>impede</b> 79:22 85:24 <b>implement</b> 61:15 95:6 112:22 <b>implementation</b> 51:16 <b>implications</b> 62:24 64:20 65:23 66:24 68:4 <b>importance</b> 6:17 <b>important</b> 6:7 17:17 23:7 24:18 27:1 30:21 40:2 50:24 57:25 85:7,8 88:8
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

104:17 106:9 107:7 117:15 120:19 <b>improve</b> 75:25 76:2 76:9 79:20 93:2 96:23 118:2 <b>improvement</b> 81:11 118:4 <b>improving</b> 86:5 <b>in-depth</b> 109:21 <b>inaudible</b> 35:4 <b>inaugural</b> 6:23 <b>incentive</b> 28:20 <b>incident</b> 104:12 <b>incidents</b> 104:14 <b>include</b> 10:13 16:13 17:1 34:5 37:5 59:25 81:25 83:22 98:1,13,14,18 114:19 115:10,25 123:10 <b>included</b> 16:16 22:2 22:7 79:7 94:21 125:20 <b>includes</b> 21:20 61:7 <b>including</b> 22:21 24:12 58:24 61:16 66:9 115:11 121:21 <b>income</b> 111:24,24 <b>incorporated</b> 52:10 115:9 <b>increase</b> 10:13 27:1 28:11 30:12 42:24 81:2,7,14 86:10 89:5 90:9 101:17 113:17 121:24 <b>increased</b> 29:18 43:19 81:4 97:3 125:19 <b>increases</b> 81:3 <b>increasing</b> 29:16 <b>incredible</b> 127:8 <b>incredibly</b> 120:13 121:3 <b>independent</b> 129:22 129:25 <b>index</b> 111:20,21	<b>indicated</b> 75:1 <b>indications</b> 126:2 <b>indices</b> 111:21 <b>individual</b> 35:18 <b>industrial</b> 23:4,4 106:12 <b>industry</b> 11:3 <b>ineligible</b> 55:13,18 <b>influence</b> 130:2 <b>inform</b> 32:20 <b>information</b> 5:7 11:2 37:3 44:21 49:12 51:25 77:8 77:19 88:22 103:23 104:1,1,11 104:19 105:8 106:10,20 112:24 115:3 126:25 <b>informed</b> 35:20 <b>informing</b> 115:16 <b>infrastructure</b> 11:23 <b>initial</b> 7:22,25 26:21 <b>initiative</b> 14:12,19 14:23 113:24 118:7 120:1 <b>initiatives</b> 37:14,24 86:16 91:7,9 93:2 93:8 94:17 119:19 121:18 <b>innovation</b> 81:8 87:4,8 88:8 121:21 <b>innovative</b> 86:8,17 <b>input</b> 10:25 103:2 107:12 119:2 129:7 <b>insight</b> 108:19 <b>instance</b> 105:4 <b>Institute</b> 29:25 126:17 127:10 <b>instruct</b> 104:6 <b>insurance</b> 18:14,14 112:16 <b>integrate</b> 41:20,21 <b>integration</b> 41:22 <b>intelligence</b> 11:15 <b>intend</b> 59:25 <b>intent</b> 23:25 25:25	29:3 40:5,7,15 59:2 80:2 96:9 <b>Interactive</b> 4:23 <b>interagencies</b> 123:9 <b>interagency</b> 1:6 3:4 5:15,21 9:20 75:7 75:22 78:6 103:1 108:19 130:25 <b>interest</b> 45:20 54:16 103:11 115:17 <b>interested</b> 5:25 7:6 112:5 132:12 <b>interesting</b> 69:20 <b>interestingly</b> 58:25 <b>interpret</b> 45:17 <b>interpretation</b> 61:15 70:14,18,20 <b>interpretations</b> 60:4 <b>interpreted</b> 60:15 89:11 <b>interpreting</b> 67:8 <b>interviews</b> 122:22 <b>introduce</b> 6:4 56:7 <b>investigate</b> 25:13 26:2 30:11 102:18 <b>investigating</b> 99:17 <b>investigation</b> 17:10 102:24 <b>investing</b> 22:24 <b>investment</b> 29:23 <b>invite</b> 121:7 <b>involved</b> 35:12 <b>involving</b> 58:25 <b>Iraq</b> 20:14 <b>issue</b> 17:12,17 19:13 24:6,18,24 36:3 41:5 54:10,21 59:9 63:20 64:22 65:21 66:17 69:5 71:16 71:16 72:22 <b>issued</b> 44:18 57:15 59:11 60:1 61:7 62:15,19,25 65:3 65:17 66:1 <b>issues</b> 6:16 7:5 33:16 35:6 46:8 47:12 48:1 54:14 60:24 87:25 100:24	101:9 103:13 104:10 109:21 110:18,20 <b>issuing</b> 68:4 104:8 <b>item</b> 36:18 <b>items</b> 50:18 <b>iterate</b> 106:25 <hr/> <b>J</b> <hr/> <b>J&amp;A</b> 42:7 <b>jading</b> 22:23 <b>January</b> 126:2,21 <b>Jen</b> 1:25 132:4,18 <b>jeopardize</b> 55:20 <b>jeopardy</b> 54:21 <b>Jerome</b> 4:18 79:15 <b>Jerry</b> 4:15,17 124:15 <b>job</b> 33:21 68:9 77:14 85:13 <b>jobs</b> 68:7,9,13 89:24 95:1 <b>Joe</b> 27:20 90:15 108:16 <b>John</b> 54:13 70:9 <b>join</b> 6:6 53:25 89:20 <b>joined</b> 44:5 129:8 <b>joining</b> 3:7 5:10 9:2 75:19 127:12 <b>joint</b> 45:7,8,10,13,24 46:6 48:17,21 49:16,21,23,24 50:9,12,14,17 52:3 52:6,9,16,20,24 53:4 <b>Julie</b> 4:11 <b>June</b> 8:4,5 10:24 17:14 62:15 <b>justice</b> 56:19,20,21 56:22 57:3,11 59:11 70:10 71:1 <b>justices</b> 59:11 <b>justification</b> 31:25 32:6 43:4 <hr/> <b>K</b> <hr/> <b>Kaufman</b> 4:11,11 <b>keenly</b> 7:6	<b>keep</b> 36:18 37:23 79:17 85:22 97:3,9 106:18 108:4,21 128:14 <b>keeping</b> 58:6 95:13 121:19 <b>keeps</b> 117:21 <b>Ken</b> 2:10 44:3 53:9 68:7 71:18 <b>Ken's</b> 70:9 <b>Kenyata</b> 2:14 3:19 11:8 18:2 24:17 30:19 33:15 36:5 38:20 41:2,10 70:2 73:8 82:10 95:14 <b>key</b> 28:23 31:23 41:24 42:22 49:5 67:9 91:16 <b>kick</b> 5:12 7:10 73:15 <b>kicking</b> 125:3,14 <b>Kidalov</b> 33:14 42:16 82:2 <b>Kidalov's</b> 35:22 <b>kind</b> 5:4 11:20 22:4 25:11 28:16 33:7 35:12 41:19 42:17 45:6,21,22 49:3 51:11 52:14 69:8 72:5 81:14 82:13 88:8 92:9 93:6 105:7 111:5 <b>kinds</b> 19:5 <b>Kingdomware</b> 2:12 16:18 34:25 43:25 56:1,9,13 57:9 58:1 62:3,3 63:24 64:20 65:7,17 66:8 66:24 67:9,17,23 68:5,17 70:13 75:16 128:1 <b>kit</b> 125:7 <b>Klein</b> 54:13 <b>Klingelhofer</b> 2:18 3:9,9 15:23,24 21:15 23:19 25:24 26:21 34:15 42:22 52:2 53:8 83:13,13 84:4,10 93:12
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------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94:19 97:17,25 98:5,17,21,25 99:19,20 100:7,11 119:4 <b>know</b> 6:25 7:13,15 7:15,20 8:5,11,13 9:17 13:2 15:6 16:8,15,20,22 17:3 17:4,6,23 19:5 21:6,22,23 23:23 25:1,10,20 26:1 27:2,6,13 28:9,10 28:17,22 30:8 33:20,24 34:7,8,12 35:25 37:3 38:6,24 39:9,11 40:4,15,15 40:21,22 42:8,9,25 43:4,5 45:3,4,7,16 45:21 46:9,17 47:13,17 48:24 49:8,9,14,18 50:4 52:7,10,18 53:1 54:3 55:4,15 57:8 60:6 64:2,5 66:12 66:14,16,20 67:20 68:3,12,18 69:8,10 70:16,17,23 72:4 77:9 81:5,21 82:3 82:17,19 83:24 84:24,25 87:13,23 88:5,5,8,15 90:3 91:5,22,25 92:1,9 93:14,15,17 94:14 94:19 95:8 96:5 97:8 98:1 100:16 101:5 103:16,16 104:13,18 105:5 105:11,12,12,13 107:6 108:11,12 109:10 111:6,8,9 114:7,25 115:1,10 115:17 116:12,25 119:21 124:11,19 124:21,24 125:15 126:6 128:8 129:11 <b>knowing</b> 80:11 <b>knowledge</b> 27:3	<b>known</b> 6:12 7:19 77:3 <b>knows</b> 23:11 39:19 <b>Kramer</b> 7:14,16 103:11 <hr/> <b>L</b> <hr/> <b>labor</b> 3:22 13:9 76:24 102:9 107:6 109:18,25 110:3,8 112:12 120:22 122:6,19 123:11 <b>Labs</b> 127:20 <b>lack</b> 33:16 36:5 <b>lady</b> 74:11 <b>laid</b> 41:7 <b>landscape</b> 76:18 <b>lane</b> 99:6,14 <b>language</b> 25:9,20 36:9,18,21 45:21 70:19 71:8,20 77:19 78:2 79:2 83:20,21 86:7 91:12 109:5 <b>large</b> 55:7 73:1 91:3 106:13 111:10 <b>larger</b> 62:8 96:7 116:10 <b>lastly</b> 8:15 123:6 <b>late</b> 8:19 18:25 44:5 44:13 <b>law</b> 10:3 15:24 20:16 35:20 51:7 52:16 55:15,17 66:5,11 73:22 95:3 95:6 128:4,24 <b>laws</b> 115:8 <b>lays</b> 112:25 <b>Le</b> 2:12 56:7,10 67:16 <b>lead</b> 14:25 18:21 79:9 89:8 <b>leadership</b> 5:9 105:18 <b>leading</b> 22:12 123:15 <b>leads</b> 74:8 <b>learn</b> 13:8 113:2	120:11 <b>learned</b> 26:13 36:24 <b>learning</b> 39:20 110:24 <b>leave</b> 107:12 124:17 <b>led</b> 97:23 103:23 <b>Lee</b> 4:13 <b>left</b> 52:14 75:24 96:24 <b>leg</b> 31:16 32:19 <b>legal</b> 52:5,7,8 57:25 59:4 67:22 <b>Legion</b> 6:1 <b>Legion's</b> 107:10 <b>legislation</b> 26:14 27:14,23 30:24 31:1 32:18,24 33:8 33:25 34:6,13 35:16 49:2,3 97:13 97:18 102:17 108:11,13,20,23 114:6 116:10 125:12 128:16 129:23 <b>legislative</b> 23:24 31:4,6,13 33:5 38:11 41:10 87:3 121:18 130:5,6,10 130:15 <b>legitimate</b> 25:16 <b>Leney</b> 12:15,19 29:21 53:20 62:19 114:15 <b>lengthy</b> 33:14 <b>let's</b> 44:11 48:3 50:22,25,25 85:10 125:5 <b>letter</b> 100:21 <b>level</b> 49:17 60:11 95:25 104:2 112:17 122:10 123:8,8 <b>levels</b> 50:3 <b>leverage</b> 42:19 76:10 <b>lie</b> 92:24 <b>life</b> 29:20 46:25 <b>liked</b> 13:23	<b>likes</b> 97:8 <b>limit</b> 46:25 <b>limitations</b> 64:16 <b>limited</b> 43:6 52:15 53:4 <b>line</b> 5:7 53:13,20,23 67:2 75:4 79:14 100:12 113:13 124:5 125:1 <b>lines</b> 122:24 <b>link</b> 77:16 <b>linkage</b> 88:17 <b>list</b> 40:22,23 90:3 <b>listed</b> 18:9 37:14 107:22 113:8 127:11 <b>listen</b> 14:23 <b>litigation</b> 59:14 63:23 64:13,19 66:14,17 <b>little</b> 5:3 6:12 7:22 41:22 42:5,10 67:7 84:9 90:15 92:10 95:25 98:18 103:14 107:7 108:25 109:1 115:2 <b>lively</b> 10:24 53:10 <b>LLC</b> 52:8,14 53:5 <b>LLCs</b> 52:9 <b>loans</b> 6:13 10:17 128:6,20 <b>lobbyist</b> 119:10 <b>local</b> 110:20 123:8 <b>locally</b> 124:2 <b>long</b> 7:5 53:1,2 57:3 60:12 63:2 68:10 96:18 117:21 <b>longer</b> 7:16 8:7 52:24 83:8 87:20 96:14 107:11 <b>look</b> 9:19 10:25 21:6 21:19 23:22 24:1 24:24 29:6 37:1 38:16 63:10,18 64:9 80:7 82:19 85:18,19,20 89:12 101:12 109:15	115:4 123:20 124:13 125:17 126:4 <b>lookback</b> 86:4 <b>looked</b> 37:12 41:21 70:24 94:15 110:16 <b>looking</b> 7:9 10:8 24:9 30:8 31:10 44:5 63:22 64:22 72:15 84:19 90:5 101:8,16,19 111:3 <b>looks</b> 16:20 44:22 63:17 114:10 115:1 124:16 <b>loop</b> 111:15 <b>loosen</b> 42:9 <b>lose</b> 53:17 <b>lost</b> 57:10 58:7 76:4 <b>lot</b> 7:15 19:4 27:3 41:3 47:25 48:1 50:3,20,22 55:16 56:25 66:23 80:19 87:10 89:13 108:23 110:19 115:22 119:7,7 123:20 127:14 130:3,11 <b>loud</b> 42:15 <b>Louisiana</b> 6:15,16 <b>love</b> 68:21,23 121:8 <b>lower</b> 58:3 122:9,16 <b>lumped</b> 96:12 <b>Lydia</b> 111:13 <hr/> <b>M</b> <hr/> <b>machine</b> 72:6,8,17 73:17,20 <b>machines</b> 72:19,21 73:21 74:16 <b>macroeconomic</b> 109:21 110:18 <b>macroeconomic</b> 112:3 <b>Maduros</b> 6:5,8 9:4,7 <b>Maggie</b> 4:5 71:24 72:1,2 75:2 82:9 95:12 129:10
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<b>main</b> 11:23 81:21	<b>matters</b> 106:12	<b>meets</b> 34:24	<b>Metheny</b> 2:13 3:21	<b>month</b> 5:20
<b>maintain</b> 75:12	<b>max</b> 33:14 35:22	<b>member</b> 15:13	3:21 77:6,7,23	<b>monthly</b> 126:23
<b>maintained</b> 10:20	<b>maximum</b> 11:17	78:12 102:25	79:8,8,12 110:4,4	<b>months</b> 8:3,9
<b>maintaining</b> 122:9	19:24 124:18	125:24	112:19 122:5,7	<b>mood</b> 56:20
<b>major</b> 16:8,10 18:4	<b>MaxPrac</b> 11:17	<b>members</b> 6:23 10:10	<b>methodology</b> 82:1	<b>morning</b> 4:25 6:6,7
<b>makers</b> 18:18 21:24	<b>McMAHON</b> 4:13	11:7 14:6 18:15	<b>metrics</b> 92:3,17	6:12,16 27:20
<b>making</b> 7:22 69:9	4:13	33:25 34:1 43:11	<b>Michael</b> 34:22 41:1	54:11
87:7,11 95:22	<b>mean</b> 21:25 33:19	44:1 48:17,22,23	<b>microloans</b> 10:14,17	<b>move</b> 9:10 12:23
105:2,4,14 126:17	39:1,2 42:22 52:13	75:8,11 76:4 83:11	<b>microphone</b> 27:19	15:12 27:25 55:25
130:15	65:1 73:2 81:16	96:25 107:8	<b>mid-July</b> 65:4	56:1 105:9 109:17
<b>manage</b> 107:25	93:13 98:6 100:7	112:14 119:2,24	<b>Mike</b> 111:17 112:8	<b>moved</b> 7:17
<b>manageable</b> 86:24	104:16 108:10	120:3,4,10 124:19	<b>military</b> 2:19 3:12	<b>moving</b> 10:8 22:16
<b>management</b> 3:25	117:20 118:24	125:16 126:1	10:12 120:4	26:14 32:9 71:18
15:2 66:1 86:13	<b>meaning</b> 94:5 100:4	127:22 130:19	126:14,17,22	79:19 86:2 88:20
103:5 109:13	<b>meaningful</b> 80:8	<b>memo</b> 63:1,1	127:23 130:20	89:2 107:3 112:12
<b>manager</b> 47:24	123:24 129:7	<b>memorandum</b> 65:3	<b>million</b> 128:21	<b>MRCOE</b> 11:11
<b>mandatory</b> 64:3	<b>means</b> 55:7 89:17	<b>memories</b> 86:15	<b>mind</b> 43:22 80:5	20:19 95:15,19
65:11 68:22 71:20	90:24 117:10	114:4	83:4 106:18 108:4	96:4,9,15
90:17	128:10	<b>mention</b> 51:15	124:15	<b>multiple</b> 59:19,20
<b>manner</b> 12:12 32:2	<b>meant</b> 27:7,8 100:8	111:24 119:15	<b>mine</b> 13:15	60:1,6
37:18 104:3	<b>measurable</b> 80:22	<b>mentioned</b> 33:20	<b>minimum</b> 23:15	<b>Museum</b> 120:10
<b>manufacturers</b>	83:24 98:11	53:15 70:12 71:18	79:11 90:17	<b>muted</b> 9:16
73:19	<b>measure</b> 12:24 30:5	80:24 119:18	<b>Minneapolis</b> 129:17	<b>Myron</b> 3:15
<b>manufacturing</b>	80:3,8,10 112:6	<b>mentioning</b> 70:9	<b>Minnesota</b> 129:17	<b>MyVA</b> 123:16
73:17	<b>measures</b> 29:8	<b>mentor</b> 2:10 30:3	<b>minor</b> 106:22	
<b>map</b> 125:20	30:15	46:10,18 47:2,12	<b>minority</b> 55:14	<b>N</b>
<b>mapping</b> 76:18	<b>measuring</b> 112:2	47:14,24 48:7	<b>minority-owned</b>	N 2:1,1 3:1
<b>March</b> 17:13 124:1	<b>media</b> 125:7	49:18 50:2,5,6,13	92:21	<b>NAICS</b> 46:20,20
<b>Marcus</b> 126:18	<b>medical</b> 16:14 18:14	54:17	<b>minutes</b> 75:5 96:24	<b>name</b> 4:2 5:5 34:22
<b>mark</b> 21:13	100:16,18,24	<b>Mentor-Protege</b>	124:18 128:3	94:21 127:8
<b>market</b> 11:2,11 13:6	101:1	43:24 44:4,12 46:7	<b>misleading</b> 25:18	<b>names</b> 5:4
22:19 63:16 69:11	<b>medically</b> 99:23	46:14 47:19,19	<b>mission</b> 23:6,6,12	<b>NARA</b> 103:23
69:16 74:2,3,3	100:18,19	49:10,16 50:14	<b>missions</b> 14:16	<b>narrow</b> 103:12
96:5	<b>mediocre</b> 117:13	51:3,6,9 52:1,3,5,9	<b>Missouri</b> 57:6	<b>nation</b> 20:14
<b>marketing</b> 77:10	<b>meet</b> 21:13 45:25	53:18 54:12,15	<b>MOAA</b> 109:3 119:6	<b>national</b> 5:2 54:6
<b>marketplace</b> 87:6	52:6 59:4 90:20	55:25 56:5 127:25	120:7	97:4 123:8 125:1
<b>Marshall</b> 4:5	91:7,8 103:7 114:9	<b>mentors</b> 46:22	<b>modeled</b> 26:17	129:17
<b>massive</b> 40:13	126:10	<b>mentorship</b> 54:25	33:11 83:18	<b>native</b> 51:22
<b>Mathew</b> 2:15 14:10	<b>meeting</b> 1:9 5:6 8:4	<b>merely</b> 23:22	<b>modification</b> 26:6	<b>nature</b> 12:9
15:1 24:3 32:13	8:5 13:10 14:3,8	<b>message</b> 39:11	112:15	<b>Naval</b> 6:1
69:19 86:13 90:4	17:14,16 24:16	<b>messages</b> 67:5	<b>modified</b> 97:19	<b>navigation</b> 76:10
105:16 113:21	33:13 44:7 46:1	111:11	<b>modify</b> 79:18	<b>NDA</b> 49:3 51:17
121:14	58:14,20,21 67:4	<b>messaging</b> 39:3	<b>moment</b> 27:18	<b>NDAA</b> 121:19
<b>Mathew's</b> 106:19	74:23 75:12 78:1	<b>messenger</b> 117:7	53:21 76:4 89:21	<b>NDAAs</b> 24:7
<b>matter</b> 13:10 14:7	86:15 90:11	<b>met</b> 5:2 54:3 58:12	102:13	<b>necessarily</b> 13:6
16:21 18:11 26:21	103:10 112:19,24	59:6 109:7	<b>money</b> 22:24 23:14	28:13 74:9 98:9
52:4 69:15 70:12	114:13 118:19	<b>Metcalf-Razzino</b>	127:18 128:15	111:1
71:22 104:2	123:25 130:22,24	1:25 132:4,18	<b>monitoring</b> 104:19	<b>need</b> 8:20 12:6 21:6

22:7,8 23:5,8,9,17 23:21 27:14,23 28:12 29:13 30:16 35:14,15 37:4 38:12 40:4 41:9 45:2 55:1 66:19 73:11,13 74:4,18 78:14 84:24,25 85:4 91:5 93:10 108:19 109:5 110:17 111:5,7 114:6,11 116:10 117:18 127:7 <b>needed</b> 43:3 70:5 72:6 82:3 85:6 110:5 <b>needle</b> 27:25 <b>needs</b> 17:10 22:11 22:12 24:20 25:5 27:24 37:1 40:25 41:15 70:4,5 71:17 71:22 74:18 85:4 91:1 102:4,5 104:18 107:23 111:4 <b>negative</b> 32:2 <b>negatively</b> 32:7 55:2 <b>negotiated</b> 61:12 <b>neither</b> 132:7 <b>network</b> 99:25 125:23 127:21 <b>Networks</b> 4:24 <b>neutral</b> 128:9,14,17 <b>never</b> 12:12 80:1 <b>new</b> 8:7 15:13 39:22 45:13 47:14 49:12 52:20 54:15 59:13 60:20,22,24 61:15 76:17,23 81:4,24 86:10 87:4,4 91:25 103:4 107:11 113:18,24 121:22 121:22 122:20 127:20 <b>news</b> 122:8,13,16 <b>nice</b> 63:1 80:2 112:10 <b>Nicolas</b> 6:5 9:4	<b>night</b> 54:11 <b>Nimmo</b> 4:23,23 <b>NIST</b> 104:12 <b>non-manufacture</b> 64:12 <b>non-manufacturing</b> 73:15 <b>nonrecovery</b> 64:18 <b>normal</b> 106:2 <b>normally</b> 105:18 <b>note</b> 39:5 120:25 <b>notes</b> 90:2 <b>noticed</b> 130:3 <b>noticing</b> 92:6 <b>November</b> 8:23 44:25 125:4 126:21 129:13,17 <b>number</b> 8:5 32:1,7 35:6,20 36:7 53:12 69:20 73:2,3 86:16 112:20 114:21,22 115:25 130:14 <b>numbers</b> 22:21 27:2 29:18 36:15 92:18 92:18,19 122:8,17 <hr/> <b>O</b> <b>O</b> 2:1 3:1 <b>object</b> 31:8 <b>objection</b> 34:16 88:4 <b>obligation</b> 103:2 <b>obstacles</b> 29:4 <b>obviously</b> 12:3 16:11 33:23 92:12 93:22 110:19 119:14 <b>occur</b> 97:24 <b>occurred</b> 104:15 <b>OCONUS</b> 24:12 <b>October</b> 12:20 44:20,23 51:2,16 121:7 <b>offer</b> 28:7,20 52:21 120:10,22 122:25 <b>offered</b> 63:17 122:24 <b>offering</b> 70:23 71:14 86:3	<b>offerors</b> 114:19 <b>offers</b> 28:6 <b>office</b> 2:11 3:13,17 3:24 4:19 15:2 24:9 26:12 46:15 46:16 50:10 52:4 53:2 56:8,11 70:23 86:12,16 92:9 97:5 103:4 104:21,22 109:12 111:1,6 127:17 <b>officer</b> 20:10 72:7 72:15,18 73:25 <b>officers</b> 2:19 3:12 13:1 28:21 36:9 42:12,17 65:4 68:14 70:6 73:4 80:18,24 95:22 104:23 <b>Oh</b> 116:11 <b>okay</b> 13:7 15:12 30:19 37:7 51:1,6 53:8,25 55:16 56:3 75:18 77:7 79:12 79:17 85:21 88:20 89:2 90:22 91:9,14 98:22 103:3 111:4 113:15 118:22 124:4,8 125:2 <b>Old</b> 4:8 <b>Omaza</b> 54:13 <b>OMB</b> 2:15 5:18 14:10 32:13 34:10 42:9 65:25 70:3 75:1 100:6 104:8 115:14 <b>OMB's</b> 70:23 <b>once</b> 94:22 100:16 100:17 <b>ones</b> 10:1,13 48:23 <b>ongoing</b> 37:15,25 52:23,25 82:23 <b>online</b> 126:25 <b>open</b> 13:10 52:14 60:23 70:22 99:25 130:7,8 <b>opened</b> 45:22 115:6 <b>Opening</b> 2:4	<b>openly</b> 102:5 <b>opens</b> 60:22 <b>opining</b> 71:7 <b>opinion</b> 23:21 68:10 69:23 70:17,20,24 71:14 <b>OPM</b> 100:6 <b>opportunities</b> 4:14 11:17 19:5,10,14 19:24 20:22 21:11 22:17 28:1,7,11 43:19 65:16 72:12 73:1 76:18 80:17 90:10 97:4 101:17 110:25 118:9 120:11 121:11 125:12 <b>opportunity</b> 22:20 22:22 23:15 28:10 28:25 29:10 30:14 33:2 39:20 54:11 77:12 88:24 91:2 111:3 129:13 <b>opposed</b> 37:2 115:19 <b>opposite</b> 69:6 <b>option</b> 68:17,19,22 68:22,25 <b>options</b> 13:24 14:1 112:21,25 <b>oral</b> 16:5 56:12 87:2 <b>order</b> 33:7 37:1 46:7 57:23 60:24 61:9 64:22 65:23 66:10 69:13,14,15 71:17 84:23 85:13 86:5 91:7 103:24 114:7 128:12,17,18 <b>orders</b> 16:18 57:14 58:12 59:18 60:1 60:17,18 61:7,16 61:20,24 62:7,8,9 62:11 64:17,18 65:9,12,14 67:12 67:25 69:8 71:5,10 <b>organization</b> 4:3 12:5 32:24 33:3 40:12,17 41:13	53:3,11 94:1 111:10 119:9,16 119:23 <b>organizations</b> 2:9 5:23 10:12 11:21 12:1 31:14,22 35:18 51:22 81:7 121:9 130:21 <b>organize</b> 37:18 <b>organized</b> 53:12 <b>original</b> 9:19 42:4 89:23 113:22 114:2 116:5,6 <b>ought</b> 83:23 <b>outcome</b> 57:8 80:22 82:8 90:9,13 132:12 <b>outline</b> 37:22 39:17 <b>outlined</b> 37:24 48:7 <b>outreach</b> 4:8 13:1 29:15 38:21,24 39:1,2 76:17 88:14 112:16 125:18 <b>outside</b> 45:15,18 47:21 63:14,21,25 64:21,25 65:5 74:8 <b>outstanding</b> 123:23 <b>overall</b> 122:10 <b>overcome</b> 84:6 <b>overseas</b> 24:12 <b>owned</b> 16:1 26:24 97:12 <b>owner</b> 6:24 116:19 <b>owners</b> 29:9 77:16 106:23 <b>ownership</b> 55:6,9,19 <hr/> <b>P</b> <b>P</b> 3:1 <b>p.m</b> 131:3 <b>packed</b> 124:1 <b>packet</b> 112:6 <b>PAGE</b> 2:3 <b>pages</b> 96:24 <b>paid</b> 46:5 <b>pamphlet</b> 105:20 <b>paper</b> 34:3,5,9 40:6 44:25 112:24
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------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<b>papers</b> 90:5 118:25	<b>payments</b> 46:5	<b>Phipps</b> 34:22,22	46:25 49:11 59:13	86:17 112:21,25
<b>paramount</b> 6:17	<b>Pearl</b> 4:23	36:21,25 41:1,1,23	61:22 68:15 77:23	<b>precise</b> 83:20,21
42:2	<b>pending</b> 82:21	129:20,21	80:4 89:13 96:17	<b>precisely</b> 23:21
<b>parity</b> 69:2,22	<b>Penson</b> 18:25	<b>Phoenix</b> 126:20	99:15 102:19	<b>predecessor</b> 101:6
<b>part</b> 14:22 17:2	<b>people</b> 8:6 11:16	<b>phone</b> 4:1 9:12,15	108:16 113:20	<b>prefer</b> 66:7
24:10 40:25 41:24	17:24 21:8 22:13	11:9 15:10 37:12	115:14 119:4	<b>preference</b> 64:7
42:3 60:3 61:13	29:19 31:7 32:7	44:5 56:4 74:11	121:10	69:25 117:10
63:11,12 65:6 68:1	39:9 40:8 74:1,8	124:20 129:8	<b>points</b> 7:10 52:2	<b>premature</b> 105:11
72:22 74:7 76:14	78:13 85:4 88:14	<b>phones</b> 55:25	102:15 105:20	<b>prepared</b> 29:9
77:14 82:6 83:9	95:4 99:23 101:10	<b>phrased</b> 10:5 13:5,7	<b>policies</b> 15:15 25:12	<b>prerequisite</b> 58:19
92:2 94:17 98:5,9	106:15 111:11	<b>pick</b> 65:1	66:1 67:20	59:2,5
98:9 102:25	117:2 119:17	<b>picked</b> 95:20	<b>policy</b> 10:2 63:1,5	<b>prerogative</b> 32:25
106:12 107:22	127:18 128:11,15	<b>piece</b> 40:6 69:3	63:11 65:4 67:17	128:22
110:17 112:1	<b>people's</b> 114:4	77:11 115:5	67:20,21 76:3	<b>present</b> 34:9 36:23
116:24 124:11	<b>perceive</b> 39:21	<b>pieces</b> 39:6 86:24	107:4 109:20	43:16 109:16
128:6	<b>perceived</b> 80:13,18	<b>PII</b> 104:1	125:14 129:23	<b>presentation</b> 14:7
<b>participants</b> 49:13	<b>percent</b> 12:3 15:18	<b>pillar</b> 88:8	<b>popular</b> 126:25	24:15 26:10 33:15
77:2	16:2,7 17:4,20,22	<b>piloting</b> 14:21	<b>populated</b> 45:8,13	39:24 67:1
<b>participate</b> 46:7	21:18 22:2 25:14	<b>pivot</b> 10:23 11:4	<b>population</b> 112:7	<b>presentations</b> 44:6
<b>participates</b> 105:19	26:22,24 49:15,19	20:2 76:13,17	125:24	<b>presented</b> 34:10
<b>participating</b> 75:18	54:16,20 55:6,7	87:17 93:10 97:8	<b>portal</b> 76:11	39:12
82:16	72:25 90:17,21	97:13	<b>portion</b> 35:4 58:18	<b>preserving</b> 119:10
<b>participation</b> 7:20	114:1,9 116:1,6,8	<b>pivoted</b> 86:2 91:1	75:20	<b>presidential</b> 109:13
15:25 35:24	118:1 122:9,12,15	<b>pivoting</b> 115:18	<b>portions</b> 17:20	125:4
129:15	<b>percentage</b> 81:2,11	<b>pivots</b> 10:6 12:23	<b>position</b> 23:19,24	<b>pretty</b> 116:14
<b>particular</b> 43:2	101:14	<b>place</b> 9:14 108:19	44:1 45:18 53:6	<b>previous</b> 60:3,16
57:19 64:24 66:15	<b>perform</b> 49:19	109:1 120:16,17	67:22 69:5,6 74:3	69:2
79:14	57:21	<b>places</b> 23:2,14,14	107:11,12 115:15	<b>previously</b> 83:3
<b>particularly</b> 7:13	<b>performance</b> 45:25	<b>plan</b> 55:2 69:4 94:6	<b>positive</b> 38:9	101:7
28:22 57:5 59:12	46:2 48:17,21,25	<b>planned</b> 6:11	<b>possession</b> 73:24	<b>price</b> 13:20 40:23
64:16 77:13	49:14 115:7	<b>plans</b> 93:16 115:13	<b>possible</b> 25:1 26:4	57:21 61:11
<b>parties</b> 46:5 61:11	<b>performed</b> 23:13	<b>platform</b> 11:12	34:18 83:17 97:2	<b>prime</b> 16:3,11 17:5
132:8,11	<b>performing</b> 20:21	13:20	126:7	89:6 90:18,23,25
<b>partner</b> 13:12	48:9,23,24	<b>play</b> 107:22	<b>possibly</b> 56:15	91:1 92:18 93:3,15
<b>partnering</b> 12:14	<b>period</b> 31:1 52:19	<b>players</b> 123:17	<b>post</b> 124:12	94:7,8 95:7,14,23
123:9	<b>periodically</b> 31:24	<b>playing</b> 17:19	<b>Post-Graduate</b> 6:2	96:11 106:13
<b>partners</b> 29:17 79:6	45:3	<b>plays</b> 105:13	<b>potential</b> 53:17	<b>primes</b> 90:19,20,21
<b>partnership</b> 52:7	<b>permanent</b> 128:5	<b>please</b> 4:2 5:6 6:7	77:17 79:1 110:24	91:3,7,19 96:10,14
120:8	<b>perpetual</b> 52:24	10:15 70:16 122:6	117:13 121:23	96:17 106:15
<b>parts</b> 44:23 82:22	<b>person</b> 40:11,14,17	<b>pleased</b> 6:4 56:7	<b>potentially</b> 11:13	<b>principle</b> 57:17
<b>partway</b> 74:20	127:14	59:12	13:12 22:24 25:9	<b>prior</b> 34:24 45:9
<b>pastures</b> 7:17	<b>personal</b> 27:3	<b>pleasure</b> 5:1 56:12	25:17 34:14 42:10	109:7 125:6
<b>path</b> 18:21 19:7	120:25	<b>plenty</b> 37:3	42:11,18 63:20	<b>priorities</b> 64:8
96:21	<b>personally</b> 68:20	<b>plug</b> 123:14	116:16,25 117:11	<b>privacy</b> 104:20,22
<b>pause</b> 43:20 53:22	104:1 121:2	<b>plural</b> 44:9	<b>potentials</b> 63:23	104:23
<b>pay</b> 46:9,10,11	<b>perspective</b> 42:9	<b>PO</b> 21:21 22:12	<b>practical</b> 11:17	<b>private</b> 126:16
128:11	54:14,22	<b>point</b> 5:12 9:11	<b>practice</b> 113:3	<b>Privateer</b> 4:17
<b>paying</b> 105:3	<b>ph</b> 54:13	25:15 32:16 36:24	<b>practices</b> 14:16 86:8	<b>proactively</b> 8:22



<b>probably</b> 7:7,8 13:19,22 17:12 19:25 31:7 32:25 54:20 57:8 59:13 64:1,13 65:20,22 66:19 75:4 84:6 122:7 123:25	81:24 83:17,19 84:20,24 85:2 95:15 97:14,21 98:7 101:6,9,11,12 101:13,17 111:2 114:10,11 122:19 126:8 128:7	<b>protections</b> 55:14 55:17 103:8,18 <b>protege</b> 2:10 45:11 46:11,19,21 47:6 48:6,8,9 49:15 <b>proteges</b> 46:18 <b>protested</b> 47:6 50:10,16 <b>prototypes</b> 87:1 <b>provide</b> 6:13 21:10 48:8 50:3 75:11,11 106:22,24 107:18 107:19 109:12 110:1,15 112:24 119:23 121:9 126:23 <b>provided</b> 61:20 83:11 107:12 126:12 127:1 <b>provides</b> 128:5,24 <b>providing</b> 86:20 121:25 128:20 <b>provision</b> 31:19 32:8 38:13 67:13 71:2 95:1 128:16 128:18 <b>provisions</b> 53:18 67:11 71:3 80:25 <b>PTACs</b> 78:20,21 <b>public</b> 1:9 5:6,20 15:24 26:8 75:8 77:3,14 102:2,3 111:22 115:16 116:12 123:18 124:12 <b>publicly</b> 23:10 120:15 127:3 <b>pulling</b> 27:22 <b>pulls</b> 123:18 <b>purchase</b> 55:10 <b>pure</b> 17:7,22 18:6 56:15 <b>purpose</b> 8:13 52:15 53:4 <b>purposes</b> 58:14,18 59:1 <b>pursue</b> 27:15 32:24 119:13	<b>pushing</b> 81:11 <b>put</b> 10:5 17:8,25 22:8,11 37:25 38:1 38:12 43:10 54:20 89:23 91:6 105:19 106:23 114:16,16 118:2,24,25 120:16 122:25 127:18 130:16 <b>puts</b> 108:25 <b>putting</b> 5:24 35:14	<b>rate</b> 81:2 122:9,10 122:14 126:4 <b>rates</b> 10:20 <b>rationalize</b> 71:19 <b>re-invent</b> 121:10 <b>reached</b> 8:21 56:16 114:6 <b>reaches</b> 24:25 <b>reaching</b> 8:20 29:19 124:19 <b>reactions</b> 62:23 <b>read</b> 9:12 63:5,6 76:24 83:14 97:19 <b>reads</b> 73:22 <b>ready</b> 127:13 <b>real</b> 7:23,24 19:16 93:12 125:18 128:4 <b>realistic</b> 96:13 <b>reality</b> 35:21 <b>realize</b> 27:11 <b>really</b> 6:9 7:21,25 12:2 13:5 19:9,14 19:25 22:7 25:25 30:14,21 35:20 36:9,17 38:15 41:13 42:12 46:11 47:8,9 50:24 52:10 55:19 60:5 62:12 62:16 72:14 73:12 75:5 79:25 80:2 92:8 100:5 101:4 101:19 111:22 119:1,9,17,23 128:3,25 129:6 <b>realm</b> 9:24 107:5 <b>reason</b> 22:5 23:11 26:22 31:20,23,24 54:10 60:5 68:6 101:6 <b>reasonable</b> 57:21 78:5 102:17 <b>reasons</b> 25:16 27:3,5 35:6 36:7 104:4 <b>reboot</b> 76:25 126:11 <b>recall</b> 24:7,11 <b>receive</b> 98:15 100:22
<b>problem</b> 22:14 55:12 102:12	<b>programs</b> 30:6 41:3 41:8,12,23 45:15 49:22 51:7 76:19 77:1 78:3,6,11 79:4 80:19 108:9 112:22,23 119:20	<b>provided</b> 61:20 83:11 107:12 126:12 127:1 <b>provides</b> 128:5,24 <b>providing</b> 86:20 121:25 128:20 <b>provision</b> 31:19 32:8 38:13 67:13 71:2 95:1 128:16 128:18 <b>provisions</b> 53:18 67:11 71:3 80:25 <b>PTACs</b> 78:20,21 <b>public</b> 1:9 5:6,20 15:24 26:8 75:8 77:3,14 102:2,3 111:22 115:16 116:12 123:18 124:12 <b>publicly</b> 23:10 120:15 127:3 <b>pulling</b> 27:22 <b>pulls</b> 123:18 <b>purchase</b> 55:10 <b>pure</b> 17:7,22 18:6 56:15 <b>purpose</b> 8:13 52:15 53:4 <b>purposes</b> 58:14,18 59:1 <b>pursue</b> 27:15 32:24 119:13	<b>quacks</b> 16:21 <b>qualified</b> 117:12,14 <b>qualify</b> 18:16 46:19 51:21 100:25 116:8,20 <b>qualifying</b> 116:17 <b>quandary</b> 16:23 <b>quarter</b> 17:14 <b>question</b> 21:4 30:21 47:25 53:21 66:8 68:7,16 70:22,24 75:4,10,15 80:16 84:15,17 93:22 109:3 110:11 115:21 <b>questionable</b> 47:8 <b>questions</b> 49:9 51:25 55:24 56:4 64:7 67:2 71:13 96:2 99:22 106:1 110:16 124:14 127:13 129:9 <b>quick</b> 3:5 84:17 87:16 105:20 108:3 119:1 124:9 125:18 129:21 <b>quite</b> 28:5 34:2	<b>read</b> 9:12 63:5,6 76:24 83:14 97:19 <b>reads</b> 73:22 <b>ready</b> 127:13 <b>real</b> 7:23,24 19:16 93:12 125:18 128:4 <b>realistic</b> 96:13 <b>reality</b> 35:21 <b>realize</b> 27:11 <b>really</b> 6:9 7:21,25 12:2 13:5 19:9,14 19:25 22:7 25:25 30:14,21 35:20 36:9,17 38:15 41:13 42:12 46:11 47:8,9 50:24 52:10 55:19 60:5 62:12 62:16 72:14 73:12 75:5 79:25 80:2 92:8 100:5 101:4 101:19 111:22 119:1,9,17,23 128:3,25 129:6 <b>realm</b> 9:24 107:5 <b>reason</b> 22:5 23:11 26:22 31:20,23,24 54:10 60:5 68:6 101:6 <b>reasonable</b> 57:21 78:5 102:17 <b>reasons</b> 25:16 27:3,5 35:6 36:7 104:4 <b>reboot</b> 76:25 126:11 <b>recall</b> 24:7,11 <b>receive</b> 98:15 100:22
<b>problems</b> 80:14 93:13,14 104:18	<b>progress</b> 7:15,22,23 7:24 8:4 9:25	<b>quacks</b> 16:21 <b>qualified</b> 117:12,14 <b>qualify</b> 18:16 46:19 51:21 100:25 116:8,20 <b>qualifying</b> 116:17 <b>quandary</b> 16:23 <b>quarter</b> 17:14 <b>question</b> 21:4 30:21 47:25 53:21 66:8 68:7,16 70:22,24 75:4,10,15 80:16 84:15,17 93:22 109:3 110:11 115:21 <b>questionable</b> 47:8 <b>questions</b> 49:9 51:25 55:24 56:4 64:7 67:2 71:13 96:2 99:22 106:1 110:16 124:14 127:13 129:9 <b>quick</b> 3:5 84:17 87:16 105:20 108:3 119:1 124:9 125:18 129:21 <b>quite</b> 28:5 34:2	<b>reactions</b> 62:23 <b>read</b> 9:12 63:5,6 76:24 83:14 97:19 <b>reads</b> 73:22 <b>ready</b> 127:13 <b>real</b> 7:23,24 19:16 93:12 125:18 128:4 <b>realistic</b> 96:13 <b>reality</b> 35:21 <b>realize</b> 27:11 <b>really</b> 6:9 7:21,25 12:2 13:5 19:9,14 19:25 22:7 25:25 30:14,21 35:20 36:9,17 38:15 41:13 42:12 46:11 47:8,9 50:24 52:10 55:19 60:5 62:12 62:16 72:14 73:12 75:5 79:25 80:2 92:8 100:5 101:4 101:19 111:22 119:1,9,17,23 128:3,25 129:6 <b>realm</b> 9:24 107:5 <b>reason</b> 22:5 23:11 26:22 31:20,23,24 54:10 60:5 68:6 101:6 <b>reasonable</b> 57:21 78:5 102:17 <b>reasons</b> 25:16 27:3,5 35:6 36:7 104:4 <b>reboot</b> 76:25 126:11 <b>recall</b> 24:7,11 <b>receive</b> 98:15 100:22	
<b>proceedings</b> 132:5,9	<b>project</b> 47:23	<b>Q</b>		
<b>process</b> 32:16 62:10 70:2 97:10 100:17 101:21,22 102:1,4 113:5	<b>promote</b> 86:7,17 120:3,6	<b>quacks</b> 16:21 <b>qualified</b> 117:12,14 <b>qualify</b> 18:16 46:19 51:21 100:25 116:8,20 <b>qualifying</b> 116:17 <b>quandary</b> 16:23 <b>quarter</b> 17:14 <b>question</b> 21:4 30:21 47:25 53:21 66:8 68:7,16 70:22,24 75:4,10,15 80:16 84:15,17 93:22 109:3 110:11 115:21 <b>questionable</b> 47:8 <b>questions</b> 49:9 51:25 55:24 56:4 64:7 67:2 71:13 96:2 99:22 106:1 110:16 124:14 127:13 129:9 <b>quick</b> 3:5 84:17 87:16 105:20 108:3 119:1 124:9 125:18 129:21 <b>quite</b> 28:5 34:2		
<b>procured</b> 62:4	<b>proper</b> 33:18	<b>R</b>		
<b>procurement</b> 15:7 16:10 29:24,25 30:2 53:12 66:5 74:9 79:5 95:20 97:12 113:24 115:24 116:9,18 127:10,13	<b>properly</b> 48:15 64:15	<b>r</b> 3:1 72:5 <b>raised</b> 54:10 58:2 <b>raising</b> 59:12 70:3 <b>ramifications</b> 104:5 <b>range</b> 20:9 <b>rapid</b> 81:8		
<b>procurement-ready</b> 29:21	<b>property</b> 107:14			
<b>procurements</b> 118:6	<b>proposal</b> 15:13,15 31:13 33:5 83:7 86:12 87:15 94:21 94:22 102:16 107:13 113:22 114:2,23			
<b>procurements</b> 118:6	<b>proposals</b> 87:2 121:20			
<b>produce</b> 89:3,17 93:1	<b>propose</b> 25:8 27:23 32:18 33:25 34:13 91:11 102:16,24 108:18 110:6 112:23			
<b>produced</b> 86:11	<b>proposed</b> 2:8 9:21 26:9,18 27:15 28:8 36:22 44:18 49:2 76:20 103:4 108:22 112:15 113:18 115:23 117:23 118:18			
<b>products</b> 86:21	<b>proposes</b> 17:11			
<b>professionals</b> 94:1	<b>proposing</b> 33:8 83:14			
<b>program</b> 6:24 26:15 26:18 27:8,9,24 28:4,8,11,16,19,23 29:16,23 30:1,7 33:10,12,22 34:8 34:19 35:3,8 37:2 37:6,19,21 38:3,16 38:22,24 39:2,22 41:6,14,16 43:24 44:12 46:8,23 47:16,20,22 49:10 49:22 50:14 51:4,9 51:12 53:18 54:12 54:12,15,25 55:25	<b>pros</b> 81:24 <b>protect</b> 106:10 <b>protecting</b> 106:11			

<b>received</b> 82:2 127:24	<b>reducing</b> 96:22	129:2	<b>represents</b> 56:8	118:21 124:7
<b>recognize</b> 97:17 104:14	<b>refer</b> 59:20 63:8 85:22 120:21	<b>relieved</b> 58:11,22	<b>request</b> 21:13 50:1	<b>responsibilities</b> 104:13,24 105:14
<b>recognizing</b> 103:16	<b>reference</b> 32:17 85:12,14 105:20	<b>relook</b> 65:16	<b>requested</b> 43:16 109:23	<b>responsibility</b> 58:22 115:12
<b>recommend</b> 27:13 39:23 97:18	<b>referencing</b> 95:15	<b>remain</b> 39:21 128:9 128:17	<b>requests</b> 108:24	<b>responsible</b> 57:20
<b>recommendation</b> 25:6,8 27:15 29:3 34:16 39:7 41:2 42:4 43:21 55:1 76:13,15,23 79:21 83:8,10 85:23 88:6 97:6 99:16 105:9 106:19 112:13 113:16,19 115:20 116:6 119:12	<b>referred</b> 123:7	<b>remaining</b> 38:10	<b>require</b> 45:23 49:6 49:13 50:18 55:5 64:9 104:7	<b>rest</b> 7:19 17:8,25 102:21
<b>recommendations</b> 2:8 7:25 8:6,10,11 9:20 17:15 26:4 39:25 43:18 75:6 75:21 76:5,6 84:5 88:1,18 89:23 97:22 103:12 107:4 108:5,8 124:25 129:23,24 130:1,4,9,15	<b>referring</b> 41:23 67:22	<b>remarks</b> 15:3	<b>required</b> 15:18 48:9 49:24 50:3 59:7	<b>result</b> 31:7,8
<b>recommended</b> 10:23 76:16 86:6 86:12 87:16 109:19 121:21 127:6	<b>reframe</b> 53:21	<b>Remarks/Roll</b> 2:4	<b>requirement</b> 43:4 46:1,12 57:21 58:11 59:5 60:22 63:17 87:17 104:19 114:7 116:1	<b>resulted</b> 24:9,11
<b>recompeted</b> 126:8	<b>refresh</b> 86:14 114:4	<b>remember</b> 10:11 56:21 64:21 69:22 82:16,17 83:10,16 89:23 117:22	<b>requirements</b> 11:4 46:2 49:14 52:7 103:7,18,19 109:7 115:10 116:1	<b>results</b> 8:22
<b>reconsideration</b> 50:1	<b>refusal</b> 20:15	<b>remains</b> 68:2	<b>requires</b> 10:23 21:21 31:25 32:6 52:11 57:13 114:18	<b>resume</b> 122:22
<b>record</b> 5:6 14:5 23:10 62:6 68:21 75:9 102:2,3 116:12,12 124:4 124:12 132:7	<b>refuse</b> 20:16	<b>remind</b> 8:15 115:5	<b>research</b> 11:3,11 13:6 22:19 42:21 63:16 69:11,16 74:2,3,4 76:2 81:25 82:13 89:13 96:5 107:4 109:19 110:25 114:5	<b>retired</b> 99:23,23 100:19
<b>recorded</b> 1:25 132:5	<b>refused</b> 72:21	<b>reminder</b> 129:16	<b>reserve</b> 72:12 126:14	<b>retooling</b> 25:5,8 75:7
<b>records</b> 99:24 100:19	<b>regard</b> 27:8 52:11 65:3 100:8 108:8	<b>remove</b> 108:2	<b>reserved</b> 72:23	<b>return</b> 11:6 75:21 76:6
<b>recurring</b> 123:10	<b>regardless</b> 59:6 114:19	<b>rep</b> 111:7	<b>resource</b> 13:2 29:17 77:20 78:9,15,22 83:6	<b>revamping</b> 20:3 36:18
<b>reduce</b> 76:1 79:20 79:22 84:19 85:24 86:3,8,18 128:19	<b>regional</b> 110:20	<b>report</b> 2:6 5:15,16 7:22,23 8:16,17,18 8:19,23 35:22 42:16 43:9,14 46:1 49:7 79:25 83:12 84:2 87:22 89:14 90:6 91:13 93:7 94:24 95:18 97:1 98:13,16 107:20 111:23,24 114:14 114:20,24 118:17 124:21 130:13	<b>resources</b> 19:7 30:4 76:12,16 77:4,11 119:24 120:14 121:8 125:9,23	<b>review</b> 15:15 24:5 25:12 43:21 48:6 48:13 51:7 73:18 86:6 95:11 100:18 113:1
<b>reduced</b> 122:1 132:6	<b>regs</b> 50:18	<b>REPORTER</b> 132:1	<b>respect</b> 25:8 33:16 42:4 75:8 111:10	<b>reviewed</b> 101:1
	<b>regular</b> 18:22 36:8 68:18	<b>reporting</b> 92:1,8,14 92:22,24 104:12 104:15 105:21 126:4	<b>respond</b> 108:20	<b>reviewing</b> 50:14
	<b>regulation</b> 86:6	<b>reports</b> 2:9 89:11 92:17 115:17	<b>response</b> 15:11 53:24 56:2,6 75:12 75:17 76:21 79:16 89:1 113:14	<b>reviews</b> 46:16 94:2
	<b>regulations</b> 74:6,7	<b>represent</b> 4:2 43:12		<b>revise</b> 98:17
	<b>regulatory</b> 10:3 23:23 85:20 86:3,4 86:6 87:21,25 104:7	<b>representation</b> 43:11		<b>revision</b> 112:13
	<b>reinforce</b> 78:16	<b>representative</b> 15:21 79:13 99:19 107:10 113:12		<b>revitalized</b> 7:21
	<b>rejected</b> 58:23 61:2 62:2 67:25	<b>representatives</b> 43:22 62:19,20 110:8 123:13		<b>rewritten</b> 31:1
	<b>related</b> 35:1 132:7	<b>represented</b> 37:9		<b>right</b> 3:3 11:6,12 12:21 14:1 18:11 18:12,17,19 19:13 19:25 20:8,9,15 21:1 22:5 23:2 29:7 30:23 31:15 31:16 35:14 37:11 39:8 40:14,20 43:14 45:16 46:5 48:2 52:15 55:22 67:11 68:25 70:15 71:3,5 73:6,10 81:6,15 93:4 94:13 94:14 95:7 98:23 99:3,5 101:22,25 102:18 106:6
	<b>relates</b> 82:5	<b>representing</b> 3:10 3:11		
	<b>relating</b> 17:12 34:18 83:17 97:20			
	<b>relationship</b> 47:11 47:18 48:4,14 49:6 126:15			
	<b>relationships</b> 120:19 123:7			
	<b>relative</b> 132:10			
	<b>relatively</b> 103:12,15			
	<b>relayed</b> 111:12			
	<b>release</b> 82:24			
	<b>released</b> 111:23			
	<b>relevant</b> 8:7 76:14			
	<b>relied</b> 58:24 60:3			
	<b>relief</b> 9:6 128:5,19			

107:2,14 109:17 116:9,22 117:24 117:25 120:17,23 126:9 <b>rights</b> 57:3 75:8 <b>risk</b> 53:15 80:19 <b>Roberts</b> 56:20 <b>rocking</b> 118:1 <b>role</b> 82:11 107:23,23 <b>roll</b> 3:5 <b>roof</b> 41:15 <b>room</b> 3:6,23 11:7 15:10 27:17 34:20 37:10 55:24 56:3 67:1 111:16 113:7 120:24 121:8 129:8 <b>Rosie</b> 127:21 <b>roughly</b> 58:13 <b>roundtable</b> 123:10 <b>rule</b> 31:4 44:18,18 45:7,13,14 46:13 47:23 48:1,16 49:2 50:21 51:1,5,15,15 57:16,17 58:16 60:12 61:21 64:12 64:14,18 100:21 <b>rulemaking</b> 104:5 <b>rules</b> 45:9 49:21,24 54:22 55:5 66:6 73:14 74:4,12 <b>ruling</b> 69:2 <b>run</b> 65:5 75:13 <b>running</b> 45:5 <b>runup</b> 66:3	58:16 60:13 61:21 127:25 <b>Savannah</b> 126:20 <b>save</b> 113:15 <b>saw</b> 40:14 122:7 <b>saying</b> 7:6 13:7 16:20 21:7,16,17 24:23 40:8,9 68:21 84:8,13 108:7,10 118:10 <b>says</b> 17:5 20:14 38:2 38:9 48:2 60:21 68:13 89:17 90:23 101:20 102:8 111:1 <b>SBA</b> 2:5,11,12 5:9 6:13,21 10:17 12:22 13:25 15:6 21:4 24:5 25:7 26:5 29:2,17 32:11 34:9 36:20 37:17 39:14 42:20 52:11 53:9,16 54:13,23 54:25 60:5 62:16 62:22,23 65:6 67:8 67:23 68:3 70:10 70:25 75:2,19 77:25 78:4 79:3,6 79:10 81:16 89:22 99:25 102:14 108:16 110:23 118:15 121:13 124:9 126:22 127:4,15,16 128:6 128:9 129:25 130:2,23 <b>SBA's</b> 3:13 9:6 14:24 26:17 33:11 44:1 56:11 69:2 71:19 83:19 97:5 <b>SBCs</b> 21:17 26:23 33:11 83:18 <b>SBIR</b> 81:8 <b>scalability</b> 40:15 <b>scale</b> 110:19 <b>Scalia</b> 56:19,21,22 57:12 <b>schedule</b> 57:14	58:12 59:18,19,19 59:20,21,21 60:2 60:17 61:1,8,10,13 61:19,24 62:7,9,10 62:13 63:13,14,15 63:17,18,19,20,21 64:6 65:9,12 68:14 75:6 94:6 <b>School</b> 6:2 127:21 <b>scorecard</b> 81:18 89:15 <b>Scott</b> 54:5 <b>screamed</b> 95:5 <b>screaming</b> 117:20 <b>screen</b> 124:13 <b>SDB</b> 30:9 <b>SDVCs</b> 78:22 <b>SDVO</b> 21:17 26:23 33:11 83:18 97:21 <b>SDVOs</b> 44:15 <b>SDVOSB</b> 63:10 97:14 <b>SDVOSBs</b> 63:19 64:10 82:12 <b>sealed</b> 66:6,7 <b>search</b> 36:12,13,14 57:2 <b>seat</b> 116:13 <b>second</b> 42:3 53:14 53:22 58:25 59:9 61:2,22 63:12 72:11 80:15 115:5 <b>secondary</b> 46:20 <b>section</b> 11:14 60:9 60:15 65:8 93:24 <b>sector</b> 126:16 <b>security</b> 103:8,18 104:2,11,19 <b>see</b> 8:3 10:19 12:10 12:10 13:17,21 22:20 40:17 45:3 48:6 53:22 55:17 63:18 64:1,13,19 65:1,22 67:1 72:16 79:24 83:1 84:21 85:8 89:7 98:20 107:23 113:11 115:3 120:24	<b>seeing</b> 30:9 66:14,14 72:24 <b>seek</b> 26:14 27:6 30:25 33:21 97:13 97:18 104:23 110:1 <b>seeks</b> 31:4 <b>seemingly</b> 7:18 <b>seen</b> 12:12 16:15 52:13 57:1 68:2 87:10 93:15 <b>segments</b> 96:6 <b>seizure</b> 57:2 <b>self</b> 109:22 <b>self-certification</b> 98:8 102:22 <b>self-certify</b> 98:3 <b>sell</b> 72:8,16 <b>selling</b> 72:21 73:17 <b>Senate</b> 62:18 <b>send</b> 44:7 75:10 120:2 <b>sense</b> 8:13 12:11 15:4 23:18 31:17 32:10 33:5 63:15 84:1 87:23 115:3 <b>sentence</b> 128:11 <b>separate</b> 60:19 71:2 85:22 100:5 118:7 <b>September</b> 1:12 3:4 17:16 124:20 <b>series</b> 82:20 105:22 <b>served</b> 29:11 <b>serves</b> 112:8 127:22 <b>service</b> 2:9 3:22 5:23 10:12 18:15 64:17 64:17 99:23 119:16 120:10 125:16,24 126:1 127:22 <b>service-disabled</b> 11:25 15:19 16:1 19:3,11,15,22 22:17 23:8 26:16 27:25 28:1,7,12,16 28:22,25 31:2,18 35:7,23 36:9 38:2 41:4 43:1 54:19,24	55:6 60:7 63:8 78:24 79:22 80:25 85:24 86:9 88:23 90:10 92:19,20 93:3 97:11 100:9 100:12,21 101:18 102:10 103:6 115:24 116:17 127:4 <b>services</b> 35:4 86:21 86:21 116:16 <b>servicing</b> 30:3 119:25 <b>set</b> 5:18 7:3 13:15 20:10 37:18 43:2 54:22 57:22 58:11 58:14 59:8,24 60:10 62:13 65:8 65:11 69:1 78:7 81:1,6 91:8,9 95:23 96:3 110:7 121:5 <b>setaside</b> 36:8 45:14 45:17 57:13 58:22 59:5 60:15,16 63:20 64:4,6,7,9 64:13 67:24 69:24 87:4 121:21 <b>setasides</b> 60:6 63:13 65:5 68:14,18 71:3 71:20 <b>setting</b> 58:19 61:19 <b>seven</b> 19:19 36:12 36:16 82:22 125:19 <b>Shannon</b> 82:25 111:13 <b>shape</b> 22:15 85:6 123:19 <b>shapes</b> 110:21 <b>share</b> 4:3 9:23 14:6 35:17 54:2 82:13 106:4 <b>shareholder</b> 55:14 <b>sharing</b> 83:4 115:2 <b>sheet</b> 105:5 <b>ship</b> 23:16 <b>shooting</b> 117:7 <b>Shoraka</b> 70:9
<b>S</b>				
<b>S</b> 2:1 3:1 <b>sad</b> 7:22 <b>Sagester</b> 4:7,7 <b>Sam</b> 2:12 46:3,7 52:1 53:1 56:7 66:25 70:8 <b>San</b> 7:17 127:22 <b>Sapphire</b> 20:24 <b>sat</b> 73:18 <b>satisfactory</b> 93:11 <b>satisfied</b> 57:16				

<b>short</b> 5:12 35:5	<b>slides</b> 9:13 50:22	<b>solicitation</b> 48:19	<b>specifies</b> 109:6	<b>stating</b> 59:23 61:3
<b>shortly</b> 5:10 62:18	<b>slightly</b> 109:19	<b>solution</b> 80:5 112:1	<b>specs</b> 34:6	65:4
62:25 65:7	<b>small</b> 1:4,7 4:19 5:2	<b>Solutions</b> 4:20	<b>speculation</b> 16:5	<b>statistics</b> 11:3,15
<b>show</b> 13:11 81:14	5:22 6:4,20 9:3	<b>somber</b> 56:20	17:2,8,8,18,23	109:25 110:9
<b>shows</b> 63:16 96:15	10:15,18 11:24	<b>somebody</b> 14:25	18:6	<b>stats</b> 101:12
<b>side</b> 115:25 122:5	14:18 15:7,19,25	101:24 107:22	<b>spend</b> 19:6 75:5	<b>status</b> 20:11,13 47:5
125:2	16:11 18:13,18,22	111:9	80:15 127:9	47:5 52:12 97:14
<b>sign</b> 77:24 105:16	19:2,12 21:11,23	<b>soon</b> 22:9 104:8	<b>spending</b> 23:1,14	97:21 99:22
<b>significant</b> 24:11	21:24 22:22 23:4	<b>sorry</b> 38:20 113:21	<b>spoke</b> 54:13 70:20	114:19
29:23	24:21 25:18 26:11	116:2,3	<b>spokes</b> 120:20	<b>statute</b> 24:6 58:13
<b>significantly</b> 29:19	26:17 27:5 29:9	<b>sort</b> 7:3 8:6 38:21	<b>spot</b> 106:24	58:18 59:7,23 60:6
122:15	36:8 42:10 43:20	82:2 112:25 114:7	<b>Spouse</b> 4:14	65:10 67:10 70:21
<b>signing</b> 91:10	43:23 44:14,16	<b>Sotomayor</b> 57:3	<b>spouses</b> 120:11	71:6,9,11 128:8
<b>silent</b> 70:14	45:2 46:19 47:8	<b>sound</b> 54:1	126:1,14,22	<b>stay</b> 9:16 10:22 75:1
<b>similar</b> 14:16 41:12	49:23 51:4 54:6,15	<b>sounded</b> 101:7	127:23	79:21 88:21
55:5 103:25 104:3	56:8 57:14,19	<b>sounds</b> 12:25 21:5	<b>spread</b> 67:14	<b>staying</b> 10:16
126:11	58:15 59:8,24 60:4	32:23 41:17 71:18	<b>staff</b> 6:5 9:3 78:14	<b>stays</b> 89:3 96:12
<b>simple</b> 105:5	60:7,9,11 61:20,24	74:24	78:25	<b>steering</b> 23:16
<b>simplification</b>	62:7,9,21 63:8,9	<b>source</b> 30:7 31:19	<b>staffed</b> 102:6	<b>step</b> 14:11 24:17
121:18	65:8 67:19 68:7,9	32:5 36:6 38:13,19	<b>staffing</b> 77:5 93:23	42:11 103:16
<b>simplified</b> 62:1,11	69:12,12,16,17	41:11 79:1 80:20	<b>stakeholders</b> 42:2	105:4,13 125:17
62:14 71:21 73:24	70:10,14,19 71:1	80:24 126:25	81:19	<b>steps</b> 104:21
86:18 121:24,25	71:12 72:8,9,13,16	<b>sources</b> 11:3 66:11	<b>stalled</b> 7:23	<b>stick</b> 26:9 102:24
<b>simplify</b> 72:5	72:20,24 73:3,5,19	110:2,12 111:21	<b>stand</b> 30:18	<b>sticker</b> 125:25
<b>simply</b> 17:6	73:20,23,24 78:23	<b>sourcing</b> 66:2	<b>stand-alone</b> 83:8	<b>stood</b> 93:24
<b>single</b> 41:6,16 97:14	79:6,23 85:25 86:9	<b>space</b> 10:10 13:9,13	<b>standard</b> 92:14,16	<b>stop</b> 43:15
97:20 112:5	86:22 87:5,8,11	14:14 104:20	92:17	<b>stopped</b> 35:7
<b>sir</b> 21:12 26:19	88:23 89:4,5,24	120:9 121:23	<b>standing</b> 117:18	<b>stories</b> 11:4 19:23
27:18 52:1 91:11	93:25 94:20 95:1	122:3 130:12	<b>standpoint</b> 12:19	40:9 74:5
97:16	96:6 103:6,20	<b>spaces</b> 103:17	63:22	<b>story</b> 6:20 38:18
<b>sit</b> 55:1 74:17	105:3,6,23 107:15	<b>speak</b> 31:22 33:1	<b>stands</b> 20:12	74:6,19
129:22	112:14 113:24	53:14 70:18 92:12	<b>start</b> 3:8 7:2 9:8	<b>story-telling</b> 39:3
<b>sitting</b> 22:14 31:14	115:10 116:18	100:17 107:8	14:21,24 24:11	<b>straightened</b> 95:7
116:22	122:2 123:11	116:4 124:8	27:1 51:3 81:4,10	<b>strategic</b> 66:2
<b>situation</b> 17:10	125:1 129:18	<b>speaking</b> 27:3 70:22	93:5 115:7 119:2	<b>strategy</b> 41:24 95:21
69:20	130:25	<b>specific</b> 9:22 12:24	122:4	<b>strawman</b> 114:3
<b>situations</b> 43:6	<b>smalls</b> 90:25 96:10	21:9 89:13 98:11	<b>started</b> 6:22 35:9	<b>streamlined</b> 86:18
48:19	96:15	103:13 104:4	94:16	97:10
<b>six</b> 47:20 124:18	<b>social</b> 125:7	106:1 115:15	<b>starts</b> 126:3	<b>street</b> 122:21
<b>size</b> 47:4,5 50:8,10	<b>socializing</b> 14:24	116:25	<b>state</b> 33:24 34:16	<b>strengthened</b> 120:8
50:11 77:11	<b>socioeconomic</b> 47:4	<b>specifically</b> 19:3	55:15,17 76:18	<b>strike</b> 96:18
114:19	47:5	20:18 24:6 29:24	112:17,22 123:11	<b>strongly</b> 66:22
<b>skill</b> 43:2	<b>SOFA</b> 20:11,12	50:18 61:14,25	<b>stated</b> 58:13 79:21	106:19
<b>slate</b> 8:12	<b>soft</b> 103:15	71:5 87:21 88:2	99:16	<b>structure</b> 58:10
<b>slide</b> 44:11 46:3 47:3	<b>software</b> 86:25	90:2 92:11 99:24	<b>statement</b> 59:2,3	61:10 80:17
48:3 50:2,8,22	<b>sole</b> 30:7 31:19 32:5	119:12	67:17	<b>Student</b> 4:9
51:1,5,14,24	36:6 38:13,18	<b>specificity</b> 77:24	<b>states</b> 56:14 60:10	<b>studies</b> 82:20
127:15 129:3,5	41:11 80:20,24	79:24 85:3	113:2 123:12	<b>study</b> 26:12 42:5

82:2,21,22 83:2 123:5 <b>stuff</b> 50:20 <b>sub</b> 96:12 106:13 <b>sub-focus</b> 88:6 <b>subcontract</b> 16:3 17:6 93:2 <b>subcontracting</b> 64:16 91:2,18,25 92:22 93:3,16 95:24 96:4,13 <b>subcontractor</b> 16:15 49:19 <b>subcontracts</b> 21:20 <b>subject</b> 14:7 <b>submarine</b> 123:4 <b>submit</b> 129:25 <b>submitted</b> 8:9 15:13 <b>subset</b> 60:23 <b>subsidy</b> 128:9,14,17 <b>success</b> 9:5 11:4 19:23 30:13 80:11 115:1 125:8 <b>successes</b> 80:3 95:17 <b>successful</b> 29:23 30:1 102:19,21 109:9 118:10,13 125:13 <b>successfully</b> 58:17 <b>successor</b> 117:13 <b>suddenly</b> 94:23 <b>suggest</b> 20:3 36:25 106:8 <b>suggested</b> 11:4 20:2 93:8 <b>suggesting</b> 38:21 <b>suggestions</b> 8:8 117:17 130:6 <b>suggests</b> 66:23 <b>summary</b> 26:8 <b>summoned</b> 22:8 <b>supervision</b> 132:6 <b>supplier-based</b> 11:3 <b>supply</b> 57:14 58:12 59:18,21 60:17 64:18 106:13,16 <b>support</b> 11:2 27:7 27:24 31:10,11,12	31:15,17 77:5 84:20 101:15 102:3 108:8 112:14,17 116:15 121:13 <b>supported</b> 49:1 101:7 <b>supporting</b> 78:8 84:19 <b>supposed</b> 27:13 66:7 72:23 94:10,11 <b>Supreme</b> 16:19 56:13,16,24 57:2 57:11 58:7,8,23,24 59:10,16 61:2,5,14 61:16 64:5,21 66:4 66:18,21 71:7 <b>sure</b> 19:17 21:19 22:10 33:22 39:7 43:12 46:4 48:8 50:17 55:2 67:3 74:4,19,22 78:20 87:7,13 94:9,10 96:25 103:25 105:1,2,4,14 111:14 116:14 117:16 128:7 <b>surpassed</b> 101:13 <b>surprised</b> 94:12 95:2 <b>surveillance</b> 94:3 <b>survey</b> 82:12 94:9 <b>suspect</b> 79:9 <b>sustain</b> 108:2 <b>sustained</b> 107:13 <b>swim</b> 99:6,13 <b>switch</b> 94:25 <b>sworn</b> 56:24 <b>sync</b> 34:14 <b>system</b> 16:10 62:4,5 74:9 77:3,15 92:4 <b>systems</b> 11:5 16:8 18:5 123:19	<b>table</b> 27:22 84:16 116:23 119:1 122:5 <b>tag</b> 40:23 <b>tailored</b> 103:12 <b>tailoring</b> 13:16 <b>take</b> 3:5 8:3 13:25 14:5 15:5 21:9 29:8 30:16 53:5 66:19 94:4 102:13 105:25 108:6 118:9,12 120:5 123:4,20 130:10 <b>taken</b> 45:18 53:6 107:10 122:25 <b>takes</b> 124:24 <b>talk</b> 11:18 12:17 31:18 72:4 93:19 94:17 105:11 119:7 123:24 125:9 129:4 <b>talked</b> 28:5,15 40:10 71:7 77:10 92:10 103:13 112:19 115:2 <b>talking</b> 28:14,18 35:11 41:10 81:4 84:14,20 86:15 91:17 98:23 101:21 108:6,13 109:2 111:9 116:15 120:22 <b>talks</b> 35:3 105:21 <b>Tandon</b> 127:20 <b>TAP</b> 126:13 <b>target</b> 93:9 <b>targeting</b> 90:11 91:2 <b>task</b> 1:6 3:4 5:15,21 7:21 9:20 16:17 27:12,13,23 39:13 75:7,22 87:25 88:11 89:18 96:1,3 101:15 103:1,10 105:1,17,19 129:14 130:25 <b>tasked</b> 111:8,14 <b>taught</b> 73:5 <b>teach</b> 77:20	<b>teaches</b> 77:2 <b>team</b> 6:19 13:11,12 67:4 82:14 109:14 114:14 118:13 <b>teams</b> 31:14 123:12 <b>technical</b> 42:6 79:5 117:14 <b>technically</b> 117:12 <b>technologies</b> 56:14 81:5 86:10 <b>Technology</b> 114:17 <b>teeth</b> 90:20 <b>tell</b> 7:8 18:6,24 19:23,24 20:4,8,19 20:20 21:1 31:21 45:11 51:11 59:10 69:10 74:6,19 81:19 92:19 107:23 116:11 127:8 <b>telling</b> 20:20 32:3,4 41:20 74:5 <b>tells</b> 6:20 <b>tens</b> 93:22 <b>tenure</b> 6:3 7:4 <b>term</b> 34:18 59:16,23 60:1 61:6 66:5 <b>termination</b> 50:4 <b>terms</b> 14:14 39:1 41:19 59:19 61:12 70:2 81:18 83:20 86:25 105:11 108:19 116:23 130:12 <b>test</b> 64:3 <b>testified</b> 34:24 42:17 62:22 70:9 <b>testify</b> 6:12 <b>testimony</b> 9:6 22:9 <b>Texas</b> 3:15 <b>thank</b> 5:10,15 6:1,8 7:12 8:1,8,25 9:2,7 12:22 14:4 15:1,3 18:1 21:2,5 26:5 26:14 27:16 29:1 36:19 44:10 54:9 55:22 66:25 72:3 73:7 75:19 77:7	79:18 86:1 87:15 90:8 91:10,15 92:6 96:20 98:22 103:3 103:9 106:21,21 110:23 111:15 113:6,10 118:14 118:22 120:7,25 121:5,14 122:4 123:22,23 129:6 130:18,21 131:2 <b>thanks</b> 4:4 6:9 32:14 56:10 75:2,18 84:17 85:21 121:3 121:16 124:16 127:12 129:16 <b>theme</b> 125:8 <b>thing</b> 18:5 21:9 33:6 38:7,10,19 45:1 59:20 62:17 68:2 84:9,13 92:15 94:14,14 101:19 117:18 119:15 120:17 <b>things</b> 7:11 9:12 11:9 12:8 16:9 19:2 20:24 22:10 25:16 29:12 34:6 40:5 41:18,20 42:6 42:8,19 45:6 49:5 49:13 55:16 57:4 67:10 73:3,11 81:8 89:25 92:2 105:5 120:16 121:9 123:21 <b>think</b> 7:3 8:2,17 14:16 17:7,9,16,17 17:18,23 18:3 19:9 19:22,25 20:18 21:13 23:20 24:8 24:10,16,20 25:5 26:1,23,25 27:14 28:3,12 30:21 31:7 31:12,15 32:15 33:24 34:6 35:15 37:2,15,17,25 38:15 39:12,20 40:2,19 41:13,22 42:18 47:8 48:4
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

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**T** 2:1,1  
**T4NG** 114:18  
**tab** 106:1

49:3 50:7,23 51:14 51:24 53:1,5,6 55:4,4 56:21 61:3 61:16 63:7,10,22 65:13,13 66:5,12 66:13,18 67:6 68:1 69:4,23,24 70:12 70:20 73:12,13 75:9 77:24 78:1 80:21 81:12,22 82:5,9,11 83:5,25 84:4,8,13,15,23 86:14 87:10,20 88:7 89:25 91:12 91:22 92:8 96:1,21 98:5,8 99:20 105:1 105:11 108:15,25 109:6 110:5 111:4 111:5,22 113:22 113:23 114:5,12 115:2 116:9,21,24 117:7 118:8,12 123:24 124:2 130:9 <b>thinking</b> 22:15 117:16 <b>third</b> 79:19 90:12 <b>third-tier</b> 49:18 <b>thirdly</b> 104:20 <b>Thomas</b> 53:19 59:11 <b>thought</b> 24:21 32:22 67:24 71:8 72:11 87:12 88:9 103:14 104:25 115:15 <b>thoughtful</b> 112:11 <b>thousands</b> 93:22 <b>three</b> 11:12,13 21:18 37:9 38:4 46:18 48:5 52:18,18 59:13 75:4,24 79:18 95:9 <b>three-year</b> 8:19 48:4 48:11,12 <b>threshold</b> 62:1,11 62:14 65:10 71:22 73:24 114:9 121:24 <b>THURSDAY</b> 1:12	<b>tie</b> 81:22 88:12 <b>ties</b> 84:18 <b>time</b> 9:5,14,25 12:4 22:8 28:5 30:18 44:2 46:18 52:20 53:19 59:9,15 61:5 68:10,15 73:7 74:23 75:13 98:12 109:16 114:23 119:17 122:22 124:18,24 126:9 127:9 <b>timeline</b> 12:25 14:3 26:9 39:25 <b>timely</b> 8:24 <b>times</b> 90:19 99:10 99:12 102:3 119:19 <b>timing</b> 104:12 <b>today</b> 8:2,10 71:15 81:1,19 93:7 108:17 118:23 129:7 130:3 <b>told</b> 6:24 38:18 <b>Tom</b> 12:15,19 29:21 53:20 62:19 114:14 129:11 <b>tone</b> 7:3 <b>tool</b> 12:16 13:11,16 14:17 20:20,23 29:7 33:18 68:23 92:1 95:19 96:4,15 <b>toolbox</b> 68:24 <b>tools</b> 11:1 12:20 33:19,20 88:14 119:20 <b>top</b> 43:22 125:1 <b>topic</b> 15:9 25:11 36:4 42:21 127:9 <b>topics</b> 43:21 97:1 130:14 <b>total</b> 16:3 17:5 22:1 22:13 113:25 114:17,21,22 125:20 <b>touch</b> 120:18 <b>touched</b> 67:7 <b>track</b> 58:6	<b>tracks</b> 50:17 <b>traffic</b> 3:7 <b>train</b> 40:3 <b>training</b> 3:22 11:5 29:18 54:12 76:17 77:1 79:4 125:21 126:20 127:5 <b>transcribed</b> 132:9 <b>transcript</b> 26:7 <b>transferability</b> 119:11 <b>transferred</b> 47:11 100:20 <b>transferring</b> 109:8 <b>Transformation</b> 114:17 <b>transition</b> 47:17 111:2 121:1 122:18 <b>transitioning</b> 120:10 125:24 <b>transparency</b> 25:3 75:13 <b>transparent</b> 21:6 37:20 39:18 73:13 <b>Treasury</b> 3:24 13:9 102:9 124:6 <b>trend</b> 122:11 <b>TRICARE</b> 18:10,16 21:16 <b>tried</b> 30:9 40:10,10 <b>trouble</b> 5:4 55:8 <b>true</b> 118:4 <b>truly</b> 19:15 23:3 127:14 <b>trump</b> 69:25 <b>truth</b> 18:6 <b>try</b> 12:23 34:2 36:13 45:5 49:17 52:19 63:13 69:10 88:10 91:6 98:18 103:24 120:15,16 128:4 <b>trying</b> 27:1 28:5,15 30:20 40:3 42:4,23 44:20 52:22 81:2 81:12,25 83:15,22 90:13 91:25 99:20 110:10 123:6	<b>tuned</b> 75:1 <b>turn</b> 11:23 15:21 26:19 32:5 43:21 44:2 52:1 53:13 67:1 77:6 97:15 121:14 124:5 <b>turned</b> 64:23,23 102:2 <b>turning</b> 30:2 <b>tweak</b> 38:9 93:10 <b>tweaking</b> 38:12 <b>Twenty-One</b> 114:17 <b>twice</b> 58:6 <b>two</b> 5:21 31:2 32:12 37:9 41:17 43:21 46:21,22,25 50:6 57:16,17,18,25 58:9,16,17 60:12 61:11,21 63:7 64:14 71:3 72:7,20 73:22 76:5,6 80:17 82:7 85:9,20 90:11 107:5 109:17 112:11 128:3 <b>two-year</b> 52:19 <b>twofold</b> 43:7 <b>tying</b> 123:17 <b>type</b> 25:2 28:6,8,19 28:19 31:3 38:11 53:5 92:15 108:4 <b>types</b> 15:16 16:13 26:2 103:25 <b>typewriting</b> 132:6 <b>typically</b> 89:17 111:13 <b>tyranny</b> 86:19	<b>underneath</b> 96:7 111:6 <b>understand</b> 3:6 23:19 36:3 69:5 71:17 84:18 103:6 105:14 106:9 <b>understanding</b> 40:5 116:3 <b>understands</b> 40:19 <b>understood</b> 53:22 60:19 <b>undertaking</b> 86:16 <b>unemployment</b> 109:22 112:13,16 114:16 122:8,9,10 122:14,17 <b>unintended</b> 116:25 <b>United</b> 56:14 <b>University</b> 4:8 <b>University's</b> 127:20 <b>upcoming</b> 127:11 <b>update</b> 2:6,12 5:12 78:2 106:24 114:25 121:17 127:24 <b>updates</b> 2:4,8 9:23 119:14 122:6 124:9 <b>use</b> 10:20 13:13 26:7 33:4,17 36:10 63:15 66:5 69:12 69:17 73:5,12,14 74:5 77:4 86:7 87:2 95:6 96:9 105:25 107:15 121:25 126:13 <b>uses</b> 87:11 128:15 <b>usually</b> 52:14,16 <b>Utah</b> 56:25 <b>utilization</b> 10:14 11:24 12:1 18:16 81:7,18 89:6 90:23 <b>utilized</b> 29:6 30:6
<b>U</b>				
<b>U.S</b> 1:4 45:15,18 79:24 86:1 <b>ultimately</b> 70:4 <b>umbrella</b> 11:22 41:9 <b>unanimously</b> 57:10 57:11 58:7 <b>unbundling</b> 86:25 <b>unchanged</b> 65:5 <b>unclassified</b> 103:22 <b>unclear</b> 47:13 52:11				
<b>V</b>				
<b>v</b> 56:14 <b>VA</b> 16:13 53:14 54:19,20,23 55:1,3				

58:2,6,9,11,12,14 58:17,20,20,21 59:3,6,7,23 61:15 62:3,6,8,13,17,19 62:22,23,25 63:3,6 63:7,12,17,24,25 64:1,9,15,21,25,25 65:5 67:11,20 68:3 70:21 71:11 99:6 99:25 100:2,15,15 100:20,25 101:2,2 101:6 102:4,5 113:18 114:15 115:23 116:3,23 123:14 129:12,12 <b>VA's</b> 55:5 <b>vacancies</b> 2:7 5:21 <b>vacate</b> 107:12 <b>vaccine</b> 18:18 21:24 <b>vaccines</b> 18:18 <b>vague</b> 109:5 <b>valid</b> 102:15 <b>validate</b> 91:19 <b>valuable</b> 39:20 78:10 120:21 121:3 <b>value</b> 17:5 22:1 29:3 72:25 <b>values</b> 61:24 128:25 <b>variety</b> 29:8 104:9 123:2 <b>various</b> 111:21 115:8 <b>VBOC</b> 3:16 <b>vehicle</b> 28:6,19 <b>vein</b> 10:7 87:19 <b>venting</b> 91:20 <b>venture</b> 45:7,8,10 45:13,24 46:6 48:18,21 49:17,21 49:23,25 50:9,12 50:15,17 52:6,16 52:20,25 53:4 <b>ventures</b> 52:3,9 <b>venue</b> 75:10 <b>verification</b> 47:4 54:21 55:3 92:1 93:13 101:5,11	<b>verified</b> 54:18 63:19 63:19 <b>verify</b> 93:14 <b>version</b> 12:15,20 13:13 <b>versus</b> 20:7 67:13 84:19 117:14 <b>vet</b> 19:11,22 23:8 31:2 54:19 78:24 92:19 93:3 100:21 102:10 114:20 115:24 116:16 126:17 <b>vet-first</b> 67:11 68:19 68:21 69:1 <b>VET-Force</b> 27:21 <b>vet-owned</b> 116:17 <b>veteran</b> 3:25 4:7,21 10:9,11 11:25,25 13:2 18:12 19:3 29:9,15,17,24 31:3 34:23 37:8 38:2,3 39:16 40:16,17 53:11 54:14,19,22 54:24 77:1,8,20 79:4 85:4 88:22 100:7,12 106:22 108:1,9 109:20,22 112:3,9 113:12 116:19 117:11,22 122:8 125:8,13,18 126:13,19 127:5 127:10 128:25 129:19 130:12,23 130:25 <b>veteran-</b> 97:11 <b>veteran-owned</b> 10:15 15:19 19:3 26:17 28:18 35:8 41:4,5 43:2,20 54:24 57:14,19 58:15 59:24 60:7 61:20 62:20 63:8,9 79:23 85:25 86:9,9 88:23 89:4,5 100:2 100:9 103:5,6 <b>veterans</b> 1:7 2:18 3:4,10,14,17,22	4:10 5:2,22,23 7:4 12:14 13:6 15:14 16:2 18:15,22 19:1 19:11,15,15,21 20:21 26:18,24,25 27:2,4,10 35:23 37:9,19,21 38:24 39:2 44:9 54:6 55:6 57:10,12,15 58:10 59:17 61:18 61:19 76:11 77:13 92:11,14,18,20 97:5,5,7,11 99:7 101:11 106:6 107:15 111:18,20 113:17 114:1,20 114:21 117:20 118:7 119:3 123:16 124:6 127:17,23 128:6 128:20 129:18 <b>veterans'</b> 102:8 111:24 <b>veteransbusiness...</b> 5:8 44:9 75:15 <b>vets</b> 22:17 23:8 27:25 28:1,8,12,16 28:22,25 31:18 80:25 90:10 92:20 101:12,18 125:1,5 <b>vetted</b> 74:18 <b>Victor</b> 2:18 3:8,9 15:23 18:2 21:7 83:13 <b>Vietnam</b> 2:18 3:10 15:14 26:18 35:10 97:7 119:3 <b>Vietnam-era</b> 26:24 26:25 <b>view</b> 71:19 <b>viewed</b> 28:17 <b>virtually</b> 93:18 <b>visited</b> 6:21 <b>voice</b> 4:24 103:1 <b>voluntold</b> 107:1,2 <b>VOSBs</b> 57:24 63:19 64:9 <b>VOSD</b> 63:10	<b>VSOs</b> 2:17 130:21 <b>VVA</b> 15:22,24 17:11 21:7 25:12 26:9 27:21 43:12 98:12 99:19 <b>VVA's</b> 21:13 <hr/> <b>W</b> <hr/> <b>wait</b> 8:21 20:15 72:11 <b>waiver</b> 74:16 <b>want</b> 7:10,12 19:9 22:10,25 23:4 24:1 24:24 31:3 33:1 42:13 46:10,11 67:6,7 69:3 75:8,9 77:24 80:21 87:20 92:12 94:13 96:11 96:25 98:19 102:7 105:25 107:22 114:10 115:4 116:18 117:13,16 118:2,6,8,12,25 119:15 120:2,3,7 120:17,25 121:10 121:11 123:4,5 124:11,18 125:9 126:6 129:6 <b>wanted</b> 5:10 13:25 19:4 34:10,13 48:20 51:15 72:18 74:12 88:4 130:16 <b>wants</b> 13:8 123:20 <b>War</b> 125:10 <b>Washington</b> 6:22 <b>wasn't</b> 19:19 46:9 72:15 105:10 129:11 <b>waste</b> 19:7 <b>wasting</b> 22:24 <b>way</b> 7:1,6 10:4 13:4 13:7 14:17 17:25 22:15,19 24:8,24 30:23 38:5 39:11 42:23 45:16 46:3 48:20 49:25 50:6 63:5,6 66:10 73:22 74:12,19,24 75:22	80:1,7,8 84:6 85:12 88:10 91:19 92:24 95:8,16 104:6,14 106:17 111:7 117:21 118:11 123:3,8 124:10 <b>ways</b> 32:18 86:19 89:11 113:16 <b>we'll</b> 3:8 69:9 83:1 93:5,7 97:3 125:14 <b>we're</b> 8:14 9:17 10:8 12:3 15:12 16:23 19:12,17 21:16 26:14 28:13 29:19 35:14 44:20 47:10 48:5,12 49:6,13 50:14 51:2 69:10 72:24 74:5 75:21 79:19 81:3,14 84:8 84:13,14,20 85:22 87:3,14 88:20 91:6 91:8,17 93:1,1,9 94:4 96:16 98:24 99:18 108:10 109:17 110:10 111:3 117:25 118:1 119:11,16 119:22 120:19 123:6 124:20 125:20 126:2,23 128:13 129:25 130:11 131:2 <b>we've</b> 5:18 8:12 9:10 9:10 16:7,9,15 17:19,24 18:24 19:19 29:18 32:8 43:12,17 44:17 45:6,18 46:8 47:12 47:25,25 48:18 49:8 53:6 55:15 82:20 83:25 87:24 90:4,11 91:20 92:9 93:14 95:8 96:21 99:13 105:22 117:21 119:21 120:8,20,21 125:10,21 129:5
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<b>weapon</b> 16:8,10 18:4	<b>wind</b> 94:7	123:1	90:12 91:21 93:15	<b>15(r)</b> 69:6 71:5
<b>web</b> 76:11	<b>winning</b> 78:13 127:19	<b>world</b> 7:19 18:13 125:10	95:9 101:10 111:19	<b>150,000</b> 60:12 62:1 65:10,15 67:25
<b>webinars</b> 126:23	<b>wins</b> 87:10	<b>worthwhile</b> 29:6	<b>yesterday</b> 54:11 111:23	69:7,8 71:21 72:13 72:23 122:3
<b>website</b> 45:3 63:3 65:20 105:24 106:7	<b>wish</b> 9:5 40:21,23	<b>wouldn't</b> 38:13 116:8 124:15	<b>yesterday's</b> 77:9	<b>15th</b> 3:4
<b>websites</b> 38:1,1 119:20	<b>withdraw</b> 27:14	<b>write</b> 44:6,8 55:20 99:18	<b>York</b> 127:20	<b>16</b> 2:18 8:18,23 43:9 43:14 83:12 91:13 98:13 107:20 118:17
<b>week</b> 125:2,6	<b>woman-owned</b> 18:12,23	<b>writes</b> 93:22	<b>younger</b> 74:10	<b>17</b> 8:12 17:14 128:19
<b>weekend</b> 56:22,23	<b>Women</b> 126:19	<b>writing</b> 45:8 54:2 102:1 107:19 118:17 122:22	<hr/> <b>Z</b> <hr/>	<b>18</b> 7:25 122:14
<b>weeks</b> 110:7	<b>women-owned</b> 44:14	<b>written</b> 24:25 30:18 45:16 74:7 76:22 80:1,6 88:21 89:3 91:3 102:16	<b>Zacchea</b> 111:17	<b>19</b> 2:14
<b>welcome</b> 3:3 4:3 9:14 33:2 75:10	<b>won</b> 58:3,6 127:16	<b>wrong</b> 19:7 23:2,16 26:25 36:15,15 65:13 70:13 82:10 91:3	<b>ZAKRCHLCHA</b> 111:17	<b>1974</b> 35:2
<b>went</b> 81:10 94:15	<b>word</b> 5:24 78:9 92:25 97:8	<b>wrote</b> 43:3 48:19 57:3	<b>zero</b> 10:17	<hr/> <b>2</b> <hr/>
<b>weren't</b> 20:25 28:14	<b>worded</b> 30:23	<b>Wynn</b> 27:20,20 30:12 31:11 84:15 84:16,17,22 85:8 85:17 90:15,15 101:3,4,23 108:3	<hr/> <b>0</b> <hr/>	<b>2,500</b> 77:15
<b>Wesley</b> 2:14 3:19,19 11:8 13:4 14:9 18:2,2 21:14 22:4 25:12,23 30:19,19 30:23 37:7 38:23 39:4,8 40:2 42:6 67:3 68:6 71:13 73:8 74:17 78:19 80:9,21 82:7,15,19 84:8,11,22 89:7,16 90:9,22 91:14,16 92:16 93:19 94:25 95:19 97:8 98:23 99:2,5,9 100:1,10 100:14 101:20,25 105:16 107:1,21 109:11 111:4 113:8 115:21 116:11 117:6,9,25 124:4	<b>wording</b> 26:1 43:9 83:11 84:3 110:6	<hr/> <b>X</b> <hr/>	<hr/> <b>0.1</b> 122:12	<b>20</b> 12:3 19:18 125:20
<b>Wesley's</b> 25:15 80:4	<b>words</b> 56:21 70:16 114:10	<b>Y</b> <hr/>	<hr/> <b>0.5</b> 117:23,25	<b>20-something</b> 35:6
<b>wet</b> 87:5 121:23	<b>work</b> 5:11,17 6:18 7:12,24 9:9 12:19 20:13,16 24:8,12 24:12 31:16 32:20 32:21 36:1 38:5 39:15 45:12 48:10 49:15 69:12 75:24 79:19 81:3 86:24 87:3 88:10 89:13 96:7,9,11 98:10 103:22 104:11 109:11 112:2 113:25 121:3 122:2 129:5	<b>yeah</b> 39:8 54:3,9,10 55:4 69:4 74:22 93:19 94:19,25 98:6 100:10 117:6	<hr/> <b>1</b> <hr/>	<b>2006</b> 57:13 59:17 61:18
<b>whatnot</b> 105:12	<b>worked</b> 69:24 126:22	<b>year</b> 5:14 7:13 16:4 17:16 20:25 21:1 40:1 47:20 48:12 51:10 57:2 64:12 80:7 90:12 93:20 93:23 94:2,6 118:2 122:16 126:24 128:4	<b>1.4</b> 81:23 82:6 83:9 83:14 84:18,19 85:11,12,14,23 108:7	<b>2010</b> 44:13 68:9,13 89:24 95:2
<b>whatsoever</b> 18:7	<b>workforce</b> 77:3,15 123:19	<b>years</b> 121:6	<b>10</b> 35:9	<b>2011</b> 9:21
<b>wheel</b> 120:20 121:10	<b>working</b> 9:21 30:14 33:22 44:17 45:4 82:3 87:9 92:7 111:19 114:23 118:5,5 121:19 129:14	<b>years</b> 16:5 19:18,19 35:7,9 42:25 48:5 50:6 52:5 59:13 68:8 69:21 87:24	<b>10,000</b> 36:16	<b>2013</b> 44:15 126:2
<b>White</b> 34:3 129:24 130:1	<b>works</b> 22:18,19 28:4 47:15	<b>Workshop</b> 122:20	<b>100</b> 2:19 123:18	<b>2016</b> 1:12 3:4 14:8 36:23 49:3 51:17 58:10 124:21
<b>widely</b> 31:23,25	<b>Workshop</b> 122:20		<b>104</b> 2:16	<b>2017</b> 17:13,16 51:11
<b>willing</b> 12:13 91:11 106:4			<b>106-50</b> 15:24 17:5 21:21	<b>24-month</b> 122:11
<b>wills</b> 19:6			<b>110</b> 2:13,20	<b>24-year-olds</b> 122:15
<b>win</b> 47:6 78:23,24			<b>114</b> 2:16	<b>24th</b> 44:19 51:2,10
			<b>12</b> 2:14	<b>25</b> 2:15
			<b>12:10</b> 131:3	<b>26th</b> 124:20
			<b>120</b> 2:20	<hr/> <b>3</b> <hr/>
			<b>122</b> 2:13,16	<b>3</b> 15:18 16:2,6 17:4 17:20,21 21:18 22:2 25:14 90:17 90:20 118:1 129:17
			<b>125</b> 2:21	<b>3,500</b> 60:12 65:9,15 67:25 72:22
			<b>13</b> 7:23 8:16	<b>3.1</b> 83:23,23 84:18 84:18 85:11,12,15 85:17,23
			<b>13563</b> 86:5	
			<b>14</b> 5:14	
			<b>14-'15</b> 8:16	
			<b>15</b> 1:12 2:15 5:15 91:20	
			<b>15(j)</b> 60:9,15 65:8 65:12,14 67:24 69:7 71:4,20 72:4	



3.2 85:18 86:2	50:20 60:8 83:19		
3.6 97:6 98:23,24	800 30:1		
31 2:14	84 2:18		
33 2:15	87 2:15		
35 2:18 12:5 42:25			
114:1,9 116:1,6,8	<u>9</u>		
350,000 128:6,23	9.2 122:16		
129:2	9:00 1:13		
38 2:14	90s 44:13		
3rd 51:16	94 2:19		
<u>4</u>			
4 2:5 125:4			
4.1 107:12 108:2			
119:12			
4.3 122:9			
40 49:15,19 54:16			
54:19 55:7 72:25			
96:24			
45 2:11			
48,000 126:1			
<u>5</u>			
5 128:21			
50,000 10:18			
500,000 122:3			
128:21 129:3			
51 55:5			
53 2:18			
57 2:12			
<u>6</u>			
6 2:6,7			
6.5 122:15			
68 2:14			
<u>7</u>			
7 2:8 130:23			
70 2:15 26:22,23			
78 2:13			
<u>8</u>			
8 131:1			
8(a) 26:17 27:6 28:4			
28:16,23,24 29:6			
30:7 31:3 33:11			
34:7,8 41:12 44:12			
45:24 46:16,23,23			
47:16,20,21 50:9			