No. 23-250

IN THE

Supreme Court of the United States

XAVIER BECERRA, SECRETARY OF HEALTH AND HUMAN SERVICES, ET AL.,

Petitioners,

v.

SAN CARLOS APACHE TRIBE,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

BRIEF IN RESPONSE

CARTER G. PHILLIPS
VIRGINIA A. SEITZ
ERIC D. MCARTHUR
SIDLEY AUSTIN LLP
1501 K Street, NW
Washington, DC 20005

CHELSEA A. PRIEST
SIDLEY AUSTIN LLP
2021 McKinney Avenue
Dallas, TX 75201

LLOYD B. MILLER*
REBECCA A. PATTERSON
WHITNEY A. LEONARD
CHLOE E. COTTON
SONOSKY, CHAMBERS, SACHSE, ENDRESON & PERRY LLP
1425 K Street, NW
Washington, DC 20005
Telephone: (202) 682-0240
Lloyd@sonosky.net

Counsel for Respondent

* Counsel of Record

October 11, 2023

QUESTION PRESENTED

The Indian Health Service (IHS) provides healthcare programs for Indian Tribes under the Indian Health Care Improvement Act (IHCIA), 25 U.S.C. § 1601 *et seq*. These programs are funded by congressional appropriations and revenues collected from third-party payors. The Indian Self-Determination and Education Assistance Act (ISDA), 25 U.S.C. § 5301 *et seq*., requires IHS to award contracts transferring to Indian Tribes responsibility for the Federal programs that IHS would otherwise administer under the IHCIA. ISDA further directs that IHS must pay contracting Tribes the amount IHS would otherwise have provided for operating the program, § 5325(a)(1), plus "contract support costs," § 5325(a)(2). "Contract support costs" include "any overhead expense incurred by the tribal contractor in connection with the operation of the Federal program, function, service, or activity pursuant to the contract." § 5325(a)(3)(A)(ii).

As IHS does, contracting Tribes collect revenue from third-party payors like Medicare and private insurers. ISDA requires such "program income" to "be used by the tribal organization to further the general purposes of the contract." § 5325(m)(1). Tribes typically fulfill this requirement by using program income to provide additional services under the contracted program, just as IHS does when operating its programs.

The question presented is:

Whether IHS is required to pay contract support costs for the increased overhead expenses a Tribe incurs in connection with services funded by the exact same program income from third parties that IHS uses when operating the same program.

PARTIES TO THE PROCEEDING AND RULE 29.6 STATEMENT

Petitioners are Xavier Becerra, Secretary of Health and Human Services; Roselyn Tso, Director of the Indian Health Services;[1] and the United States.

Respondent is the San Carlos Apache Tribe.

[1] Roselyn Tso was automatically substituted for Benjamin Smith under Rule 35.3 of the Rules of this Court.

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES Page

TABLE OF AUTHORITIES—continued

STATUTES AND REGULATIONS

TABLE OF AUTHORITIES—continued

TABLE OF AUTHORITIES—continued

INTRODUCTION

Congress created a statutory scheme to ensure that when Tribes invoke their self-determination rights to take over operation of Federal programs for Indians—such as healthcare programs that would otherwise be administered by the Indian Health Service (IHS) under the Indian Health Care Improvement Act (IHCIA), 25 U.S.C. § 1601 *et seq.*—the Tribes would be on the same footing as IHS would be if IHS continued operating the program. For that reason, the Indian Self-Determination and Education Assistance Act (ISDA), 25 U.S.C. § 5301 *et seq.*, requires IHS to pay the Tribes the full amount of appropriated funds that IHS otherwise would have allocated for the program, plus "contract support costs" for the additional expenses that Tribes, but not IHS, incur in carrying out the program.

That funding is woefully insufficient to support the unmet needs within Indian healthcare programs. For that reason, both IHS (when it operates the program) and Tribes (when they operate the program) bill and collect from third-party payors, such as Medicare, Medicaid, and private insurers, for services provided by the Indian healthcare program. Both IHS and contracting Tribes then use that program revenue to provide additional healthcare services. When IHS operates the program, it generally does not use program revenue to cover its increased overhead expenses to provide these additional services because overhead expenses are borne outside of the program, so 100% of the third-party revenue goes back into providing services. But when Tribes operate the enlarged program, they incur increased overhead expenses, such as increased auditing and financial management costs. If the government refuses to reimburse these overhead

expenses, Tribes must divert program income away from services to cover them.

IHS nonetheless refuses to reimburse Tribes for the overhead expenses they incur when spending program income to provide additional healthcare services. That refusal is inconsistent with the statute. Most obviously, § 5325(a)(3)(A)(ii)[2] requires reimbursement for "any overhead expense incurred by the tribal contractor in connection with the operation of the Federal program, function, service, or activity pursuant to the contract." The overhead expenses that Tribes incur when they use program income to provide more services pursuant to the contract fall squarely within this definition. This conclusion follows from the plain meaning of the statutory text; from the statutory structure, which is designed to place contracting Tribes on par with IHS when they step into IHS's shoes to run the program; and from the venerable canon of interpretation—here incorporated expressly into both the statute and the contract—that ambiguities in statutes affecting Indian Tribes must be resolved in favor of the Tribe.

Although the court below correctly held for the Tribe, the circuits are split on this important issue. Thus, respondent agrees that this Court should grant the petition, but it should affirm to make clear that Tribes are entitled to reimbursement for all of the overhead expenses they incur in connection with their operation of a contracted Federal program.

STATEMENT OF THE CASE

1. ISDA empowers Indian Tribes to contract with IHS to operate Federal healthcare programs that IHS would otherwise run under the IHCIA. To ensure that

---

[2] Unless otherwise specified, all citations to the U.S. Code in this brief are to title 25.

Tribes have the resources to provide at least the same level of care as IHS, ISDA (together with the IHCIA) establishes several funding mechanisms to put contracting Tribes on an equal footing with IHS.

First, IHS must pay the contracting Tribe the amount of appropriated funds IHS would have provided to run the program itself, known as "the secretarial amount." § 5325(a)(1). But, as ISDA recognizes, the secretarial amount alone is not enough to fully fund tribal programs, because Tribes incur additional costs that the government does not incur when IHS operates the program, such as workers' compensation insurance, and because Tribes incur overhead expenses associated with operating the program, costs that IHS funds from general appropriations. See *Cherokee Nation of Okla.* v. *Leavitt*, 543 U.S. 631, 635 (2005).

To fill this gap, IHS must pay contracting Tribes the "contract support costs" they incur "to ensure compliance with the terms of the contract and prudent management," but which are not included in the secretarial amount because IHS either does not incur those costs or funds them from other resources. § 5325(a)(2). Prior to amendments to ISDA that further defined these contract support costs, "the single most serious problem with implementation of the Indian self-determination policy ha[d] been the failure of" IHS "to provide funding for the indirect costs associated with self-determination contracts." S. Rep. No. 100-274, at 8 (1987) (1987 Senate Report). To remedy IHS's "consistent failur[e]" to compensate contracting Tribes, Congress added and then clarified IHS's obligation to fully pay contract support costs. *Id.* at 37; see also S. Rep. No. 103-374 (1994) (1994 Senate Report).

As amended, ISDA defines "contract support costs" to include (1) "direct program expenses for the operation of the Federal program that is the subject of the

contract," and (2) "any additional administrative or other expense incurred by the governing body of the Indian Tribe or Tribal organization and any overhead expense incurred by the tribal contractor in connection with the operation of the Federal program, function, service, or activity pursuant to the contract." § 5325(a)(3)(A)(i)–(ii). Congress enacted these provisions so that Tribes would have enough resources to deliver "at least the same amount of services" that IHS would have provided if it had continued operating the contracted program directly. 1987 Senate Report at 16. Congress specifically wanted to protect Tribes from being "compelled to divert program funds to prudently manage" their programs, thereby reducing funds for services. 1994 Senate Report at 9.

Finally, ISDA contemplates that contracting Tribes will earn "program income" by billing third-party payors (such as Medicare, Medicaid, and private insurers) for services provided by the Tribe's healthcare program—just as IHS would do if it were operating the program—and directs how that income must be used. § 5325(m)(1) (requiring that Tribes use such collections to "further the general purposes of the contract"); see also § 1623(b) (designating healthcare programs operated by IHS or Tribes as "the payer of last resort"); § 1641(d)(1) (authorizing Tribes to directly bill and collect from third-party payors). When IHS operates the program directly, it collects this program income and reinvests it into the program. See § 1621f(a)(1); § 1641(c)(1)(A). Third-party revenue makes up a significant portion of IHS's budget, contributing over $900 million annually to IHS's roughly $4 billion budget during the years at issue in this case. Dep't of Health & Hum. Servs., *Fiscal Year 2013, Indian Health Service: Justification for Estimates for Appropriations Committees*, at CJ-141 (2012) (hereinafter,

2013 CJ). When Tribes contract to operate the healthcare programs that IHS would otherwise operate, the Tribes must collect that same program revenue, either directly or through IHS.[3]

This program income does not reduce the amount that IHS must otherwise provide the Tribe, just as it would not reduce IHS's appropriations if IHS operated the program. § 5325(m)(2); § 1621f(b); § 1641(a); see also § 5388(j). But the Tribe is required by both statute and contract to use that program income "to further the general purposes of the contract." § 5325(m)(1); see § 5329(a)(1) & (c) (model agreement § 1(a)(1)) (requiring that ISDA's provisions be incorporated into every self-determination contract). Tribes typically fulfill this obligation by providing additional healthcare services under the program, in precisely the same way IHS does. When they do so, however, Tribes incur increased overhead expenses associated with those services. The question presented in this case is whether IHS must reimburse Tribes for the increased overhead expenses they incur when they use program revenue collected from third-party payors to provide more healthcare services pursuant to the contract.

---

[3] IHS can bill and collect from third-party payors on the Tribe's behalf and remit the funds to the Tribe, or the Tribe can bill and collect from third-party payors directly. *See* § 1641. Beginning in 2000, Congress gave Tribes the right to bill and collect from third-party payors directly after IHS's system came under heavy criticism, though it was not until 2010 that Congress permitted all Tribes to bill and collect without IHS's prior approval. *See* Alaska Native & Am. Indian Direct Reimbursement Act of 2000, Pub. L. No. 106-417, 114 Stat. 1812 (2000); H.R. Rep. No. 100–393, at 5–6 (1987) ("Some contractors estimate that collections at their service units would be tripled if the system were improved, and they are anxious to make the improvements."). Today, most Tribes handle their own third-party billing and collecting.

2. Respondent San Carlos Apache Tribe is a federally recognized Indian Tribe located in rural southeast Arizona, and is a party to an ISDA contract with IHS. CA ER 56. The 2011–2013 contract at issue here covered several Federal programs, including a community health representative program, diverse substance abuse and related adult and youth programs, and an emergency medical services ambulance and patient transport program. *Id.* at 57.

Each year the Tribe and IHS also entered into separate "annual funding agreements" incorporated into the contract, *id.* at 80, which in turn incorporated a "scope of work" for each covered program. For example, the scope of work covering the emergency medical services program mandated that the Tribe provide "basic and advanced emergency medical care, as well as non-emergency transportation services, for patients with medical appointments." *Id.* at 85. As relevant here, the scope of work further required the Tribe to implement "an efficient billing system, to maximize third party revenues" from "Medicare, [Medicaid], Private Insurance, and IHS Contract Health Services." *Id.* at 86.

The Tribe implemented a third-party billing system to collect program income, as required, and used that program income to provide additional healthcare services, in fulfillment of its statutory and contractual obligation to use the program income "to further the general purposes of the contract." § 5325(m)(1). The expenditures caused the Tribe to incur approximately $3 million in increased overhead expenses over the course of the three-year contract. The Tribe filed claims with IHS for reimbursement of those costs, but the IHS contracting officer denied the claims.

The Tribe then filed suit, challenging the denial pursuant to § 5331 and 41 U.S.C. § 7103. As relevant here, Count II asserted that IHS breached the contract by

refusing to reimburse the Tribe for the increased overhead expenses the Tribe incurred when it used program income from third-party payors to further fund the contracted healthcare program, as ISDA required it to do. CA ER 33. The district court granted the government's motion to dismiss Count II, ruling that IHS "is not required by [ISDA] to pay [the Tribe] indirect contract support costs associated with the income it received from third-party payors." Pet. App. 19a.

3. The Ninth Circuit reversed. The court started with the statutory language, which requires that contract support costs be paid "for the reasonable costs for activities which must be carried on by a tribal organization as a contractor to ensure compliance with the terms of the contract." § 5325(a)(2). The court found this language "straightforward." Pet. App. 8a. "[A]ny activities that the Contract requires the Tribe to perform to comply with the Contract," the court explained, "are eligible for [contract support costs]." *Id.* The court then concluded that the contract "require[s] the Tribe to carry on those portions of its healthcare program funded by third-party revenues," because the contract incorporates ISDA, and "ISDA requires the Tribe to spend those monies on health care." *Id.*[4] "Put differently," the court said, "if the Tribe did *not* spend third-party revenue on its healthcare program, as defined in 25 U.S.C. § 1641(d)(2)(A), it would fall out of

---

[4] As the petition observes, the provision the Ninth Circuit cited is part of the IHCIA rather than ISDA. Pet. 10. But that is immaterial. ISDA, too, requires third-party revenues to be spent on the healthcare program. § 5325(m)(1) (requiring program income to be used "to further the general purposes of the contract"). In fact, ISDA's requirement is more comprehensive because it applies to all program income from third-party payors, regardless of source, whereas the IHCIA's requirement applies only to reimbursements under specified programs. §§ 1621f(a)(1), 1641(d)(2)(A).

compliance with the Contract. Section (a)(2) therefore appears to apply to the scenario at hand." *Id.* at 9a.

The court then explained that § 5325(a)(3)(A) "explicitly defin[es]" contract support costs to include expenses "for the operation of the Federal program that is the subject of the contract," as well as expenses "incurred by the tribal contractor in connection with the operation of the Federal program." Pet. App. 9a (quoting § 5325(a)(3)(A)(i)–(ii)). The court held that it did not need to decide whether the "Federal program" included healthcare activities funded by program revenue from third-party payors, however, because the statute defines contract support costs more broadly to include expenses for activities "performed 'in connection with' the operation of the Federal program." *Id.* (quoting § 5325(a)(3)(A)(ii)). "That language contemplates that there are at least some costs *outside* of the Federal program itself that require [contract support costs]." *Id.* at 11a. The court interpreted "connection" to mean a "causal or logical relation or sequence." *Id.* at 9a (quoting Merriam-Webster Dictionary). Because "the Contract requires the Tribe to provide third-party-funded health care," the court found a "'causal' relationship between the Contract defining the Federal program and the third-party-revenue-funded activities." *Id.* The court thus concluded that "the plain language of [§ 5325(a)] appears to include" costs for services funded by program income. *Id.* at 12a.

The Ninth Circuit recognized that the D.C. Circuit had reached a different conclusion in *Swinomish Indian Tribal Cmty.* v. *Becerra*, 993 F.3d 917 (D.C. Cir. 2021), but criticized that decision for "ignor[ing] the plain language of the statute." Pet. App. 10a. *Swinomish*, the court explained, misread the statute by limiting contract support costs to activities "'described in the contract' or 'funded by the signatories to the

contract,'" even though those limitations do not appear in the statute's text. *Id.* The court also could not credit "Defendants' argument—and *Swinomish*'s conclusion—that the meaning of the statutory phrase 'the Federal program' is not *at least* ambiguous," given that the government itself "refers to the expanded suite of services funded by third-party revenue as being part of 'the program.'" *Id.* at 11a. Although it did not decide the question, the court observed that "it is entirely possible to read 'the Federal program' as encompassing those portions of the Tribe's healthcare program funded by third-party revenue." *Id.* at 10a. The court further criticized *Swinomish* for ignoring that the statute requires payment of contract support costs for expenses incurred "in connection with the operation of the Federal program," not solely "the Federal program" alone. *Id.* at 11a–12a.

The court then rejected the government's reliance on other statutory provisions. First, the court explained that § 5325(m), which requires program income to be used to further the contract's general purposes and prohibits IHS from reducing a Tribe's funding on account of program income, "says nothing about the administrative costs of the third-party-revenue-funded programs; it therefore cannot clearly be read as taking a position on how those costs should be funded." Pet. App. 13a. At most, the subsection's silence on the matter left "this passage … ambiguous as to [contract support costs]." *Id.*

Second, the court rejected the government's reliance on § 5326, which requires that qualifying contract support costs be "directly attributable" to the IHS contract. The spending funded by program income from third-party payors "occurs only because the Contract allows the Tribe to recover the insurance money and requires the Tribe to spend it," the court said. Pet. App.

15a. "It is therefore not clear that this section unambiguously means that this spending is *not* 'directly attributable' to the Contract." *Id.*

Although the court found the statute ambiguous in some ways, the court held that it ultimately did not need to resolve any of these ambiguities because the Indian canon applies. Pet. App. 7a, 15a. In fact, the court noted, the canon "is here incorporated into the Contract with binding language that reads: '[e]ach provision of the [ISDA] and each provision of this Contract shall be liberally construed for the benefit of the contractor.'" *Id.* at 6a–7a. As a result, the court reasoned that it "merely must conclude that the language is ambiguous to read it as the Tribe does." *Id.* at 7a. Based on the analysis described above, the court determined that "the statutory language is ambiguous, the Indian canon applies, and the language must be construed in favor of the Tribe." *Id.* at 15a. Thus, the court held "that the ISDA requires payment of [contract support costs] for third-party-funded portions of the Federal healthcare program operated by the Tribe." *Id.*

4. A few months later, a splintered Tenth Circuit panel reached the same conclusion. *N. Arapaho Tribe* v. *Becerra*, 61 F.4th 810 (10th Cir. 2023), *petition for cert. filed*, No. 23-253 (U.S. Sept. 15, 2023).

Like the Ninth Circuit, Judge Moritz found the statute ambiguous and therefore applied the Indian canon by adopting the Tribe's "reasonable interpretation." *Id.* at 823. Unlike the Ninth Circuit, however, Judge Moritz reasoned that the Tribe's "administrative costs associated with generating and then expending third-party revenue qualify under *either* subpart of subsection (a)(3)(A)." *Id.* at 818 (emphasis added). She observed that Tribes *must* collect from third-party payors and then use that program income for healthcare programs under contract. She therefore

agreed with the Ninth Circuit that expenses incurred as a result of third-party collections were incurred "in connection with the operation of the federal program" under § 5325(a)(3)(A)(ii). *Id.* at 818–19. For the same reason, Judge Moritz explained, such expenses were "direct program expenses for the operation of the Federal program," and thus reimbursable under § 5325(a)(3)(A)(i) as well. *Id.* at 818–19, 822.

Judge Eid concurred in the judgment. In her view, "the Tribe present[ed] the only reasonable construction" of the statute, while the government's contrary interpretation "vitiates much of the statutory scheme." *Id.* at 824 (Eid, J., concurring in the judgment). Judge Eid reasoned that "the term 'contract support costs,'" as defined in § 5325(a)(2)–(3), "has a broad meaning." *Id.* at 825. She further noted that ISDA prohibits reducing a Tribe's funding due to its receipt of third-party revenue, "which the statute requires to be injected back into the Tribe's program and which itself only exists because of the IHS contract." *Id.* "Based on the plain meaning of both the contract and § 5325," Judge Eid concluded, "the Tribe must be reimbursed for these contract support costs." *Id.*

Judge Baldock dissented in part. He agreed with Judge Eid that § 5325 "is unambiguous and that under its terms, the Tribe wins." *Id.* at 828–29 (Baldock, J., dissenting in part). However, he would have held that § 5325 "is limited by § 5326," which he read to require that costs be "'directly attributable' to the Tribe's contract with IHS," and that "the costs cannot be 'associated with any contract … entered into between an Indian tribe … and any entity other than" IHS. *Id.* at 829. In Judge Baldock's view, expenses incurred due to third-party collections could not meet the latter requirement. *Id.* As Judge Eid noted, however, such "a broad reading of this phrase would vitiate most, if not

all, of the [ISDA's] explicit contract support costs funding." *Id.* at 826 (Eid, J., concurring in the judgment). Indeed, every other appellate judge to address the government's reliance on § 5326 to avoid payment of contract support costs for program-income-funded activities—including Judge Moritz, Judge Eid, and all three members of the Ninth Circuit panel—has rejected it. See *id.* at 822–23 (Moritz, J.); *id.* at 825–27 (Eid, J., concurring in the judgment); Pet. App. 13a–15a.[5]

5. On May 16, 2023, the Ninth Circuit denied the government's petition for rehearing en banc. On September 13, 2023, the government timely filed its petition for a writ of certiorari.

ARGUMENT

The government is correct that a split of authority exists, that this case is a proper vehicle in which to resolve it, and that the question presented warrants this Court's review. But the government's interpretation of the statute is wrong. As the Ninth and Tenth Circuits have correctly held, IHS must reimburse a contracting Tribe for the increased overhead expenses it incurs when using program income from third-party payors to provide additional services under the contracted program, in fulfillment of the Tribe's statutory and contractual obligation to use all such program income to further the contract's general purposes. This Court should accordingly grant the petition and affirm.

I. THE DECISION BELOW IS CORRECT.

The Ninth Circuit's decision is correct. ISDA requires that IHS reimburse Tribes for the overhead expenses they incur when they spend program income on

---

[5] As the Ninth Circuit noted, "*Swinomish* did not consider § 5326." Pet. App. 14a.

the program. The plain language of both § 5325(a)(3) and § 5325(a)(2), as well as their surrounding provisions, leads to that result. That interpretation also is consistent with the statutory scheme that Congress enacted, which ensures parity between IHS and Tribes in the operation of a Federal program.

The government's contrary arguments fail. Strikingly, the government has almost nothing to say about the key statutory provision defining "contract support costs" to include "any overhead expense incurred by the tribal contractor in connection with the operation of the Federal program … pursuant to the contract." § 5325(a)(3)(A)(ii). Instead, the government relies on different parts of the statute to argue that this provision cannot mean what it clearly says. But none of the government's arguments overcomes this plain statutory text, let alone clears the high bar to avoid the Indian canon of construction, which is written into both the statute and contract in this case.

A. Overhead expenses that Tribes incur when using program income to provide additional services pursuant to the contract fall squarely within § 5325(a)(3).

Section 5325(a)(3) defines "[t]he contract support costs that are eligible costs for the purposes of receiving funding under this chapter." § 5325(a)(3)(A). Those costs include "(i) direct program expenses for the operation of the Federal program that is the subject of the contract," and—as most relevant here— "(ii) … any overhead expense incurred by the tribal contractor in connection with the operation of the Federal program, function, service, or activity pursuant to the contract." § 5325(a)(3)(A)(i)–(ii). Despite the extensive discussion of § 5325(a)(3) in the Ninth Circuit's opinion below, the petition is silent on the interpretation of that provision. For good reason: the plain language of

§ 5325(a)(3) shows that the expenses at issue in this case must be reimbursed.

1. That conclusion follows, first, because services funded with program income are part of "the Federal program" for which § 5325(a)(3) requires reimbursement of contract support costs. Thus, IHS must reimburse the Tribe for overhead expenses incurred in providing those services pursuant to the contract.

The Tribe's collection and expenditure of program income are driven by the statutory scheme and the contract. Because healthcare programs operated by IHS or Tribes are the "payer of last resort," § 1623(b), the Tribe must collect all program income from third-party payors, such as Medicare, Medicaid, or private insurance. See § 1641(d)(1) (allowing Tribes to directly bill and collect from third-party payors). The contract between IHS and the Tribe reinforces this by obligating the Tribe to implement "an efficient billing system, to maximize third party revenues" from "Medicare, [Medicaid], Private Insurance, and IHS Contract Health Services." CA ER 86. And once the Tribe collects that program income, it must use it solely to "further the general purposes of the contract." § 5325(m)(1). In other words, as a condition of contracting with IHS to take over operation of the Federal program, the Tribe agreed to collect program income from third-party payors and spend that money on the same program. That spending—*which is required by the contract*—is clearly part of the "Federal program" under contract.

In fact, if IHS were still operating the program, IHS also would be collecting revenue from third parties and spending it on the same program. See § 1621f(a)(1); § 1641(c)(1). IHS has reported that such program income makes up a significant part of its budget. CA Appellant's Opening Br. 6 & n.2. And, as the Ninth Circuit noted in its opinion, the government repeatedly

referred to services funded by program income as part of the "program" during oral argument. Pet. App. 11a. These services are no less part of the "Federal program" when a Tribe operates it.

Interpreting "Federal program" to mean the same thing when IHS is operating the program as when a Tribe is operating the program is faithful to Congress's intent to ensure that Tribes can deliver "at least the same amount of services" that IHS would have provided if it had continued operating the contracted program, 1987 Senate Report at 16, and "to assure that there is no diminution in program resources when programs, services, functions or activities are transferred to tribal operation," 1994 Senate Report at 9.

2. Other parts of the statute confirm that the "program" includes more than just activities funded by the secretarial amount, including activities funded by income collected from third-party payors. For example, § 5325(m)(1) addresses "*program* income earned by a tribal organization in the course of carrying out a self-determination contract." (emphasis added). Describing those payments as "program income"—rather than just "income"—indicates that the money collected is part of the "program" a Tribe operates in IHS's stead. "Congress' choice of words is presumed to be deliberate." *SAS Inst., Inc.* v. *Iancu*, 138 S. Ct. 1348, 1355 (2018) (quoting *Univ. of Tex. Sw. Med. Ctr.* v. *Nassar*, 570 U.S. 338, 353 (2013)).

Similarly, § 5329(c) (model agreement § (1)(f)(2)(A)(ii)) requires that self-determination contracts be accompanied by an "annual funding agreement" that describes the "programs, services, functions, and activities to be performed" under the contract, "including those supported by financial resources other than those provided by the Secretary." This language could hardly be clearer that the

contracted "program" includes more than just services funded by the secretarial amount, and extends to services funded by other resources, like program revenue collected from third-party payors.

Finally, § 5388(c) expressly specifies that the "amount" a Tribe is "entitled to receive" under § 5325(a) "includ[es] any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the Indian tribe or its members, all without regard to the organizational level within the Department where such functions are carried out." The funds that pay for the increased overhead expenses required to support IHS's expenditure of program income on additional healthcare services are without question "functionally related to the provision by the Secretary of services and benefits to the Indian tribe or its members." See, *e.g.*, *FMC Corp.* v. *Holliday*, 498 U.S. 52, 58 (1990) (describing the phrase "relate to" as "conspicuous for its breadth"). IHS must therefore reimburse Tribes for those same expenses.

3. This conclusion is the only one consistent with Congress's intent to ensure parity between programs operated by IHS and programs operated by Tribes. Indeed, Congress wanted to ensure that Tribes could deliver "at least the same amount of services" that IHS would have provided if it had continued operating the contracted program. See 1987 Senate Report at 16. Congress expressly declared its intention "to provide funding for programs and facilities operated by Indian tribes and tribal organizations in amounts that are not less than the amounts provided to programs and facilities operated directly by [IHS]." § 1602(7).

The statutory scheme reflects that purpose repeatedly by giving both IHS and Indian Tribes the same rights and obligations. See, *e.g.*, § 1621e(a) (giving both IHS and Tribes the right to collect from third-party

payors); § 1641(c)(1)(B) (imposing restrictions on how IHS can use program income); § 1641(d)(2)(A) (imposing similar restrictions on how Tribes can use program income when they directly bill third-party payors); § 1621f(b) (providing that program income "may not offset or limit any amount obligated to any [IHS] Unit"); § 5325(m)(2) (providing that program income "shall not be a basis for reducing the amount of funds otherwise obligated to the contract"); § 1641(a) (providing that "[a]ny payments received by an Indian health program … for services provided to Indians eligible for benefits … shall not be considered in determining appropriations"). And when Tribes incur costs that IHS would not incur were it operating the program or that would be funded from other resources—such as contract support costs—the statute requires IHS to make up the difference. § 5325(a)(2)–(3).

a. The government seeks to escape this conclusion by arguing that the IHCIA, not ISDA, governs a Tribe's ability to collect program income from third parties, indicating that "Congress dealt with third-party payments separately from ISDA's agency-funding provisions." Pet. 16. This ignores the interrelationship between the IHCIA and ISDA, which "deal with precisely the same subject matter" and therefore "are to be taken together, as if they were one law." *United States* v. *Stewart*, 311 U.S. 60, 64 (1940) (quoting *United States* v. *Freeman*, 44 U.S. 556, 564 (1845)). After all, "courts do not interpret statutes in isolation, but in the context of the *corpus juris* of which they are a part." *Branch* v. *Smith*, 538 U.S. 254, 281 (2003) (opinion of Scalia, J.); see Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 252–255 (2012) (describing the related-statutes canon).

At the most basic level, the IHCIA creates most Federal Indian healthcare programs, §§ 1601–1684, and

ISDA authorizes Tribes to take over the operation of those programs, § 5321(a). For that reason, the IHCIA refers to ISDA or its key definitions literally hundreds of times. Even the ISDA contract with the Tribe points the parties to "IHCIA Authorities" and instructs that the IHCIA governs in a conflict between the contract and the IHCIA. CA ER 57. Thus (and contrary to the government's characterization), the IHCIA and ISDA do not show that Congress "dealt with third-party payments separately"; rather, they show that Congress addressed the collection, uses, and implications of program income in a coherent statutory scheme with a consistent focus on ensuring parity between IHS and the Tribes that run contracted programs in its stead.

b. The government denies that its interpretation destroys the parity that Congress intended, claiming that "Congress placed IHS under greater restrictions than contracting tribes." Pet. 20. But the government's examples prove no such thing. For instance, the government argues that a contracting Tribe "may unilaterally decide to offer health care services to non-Indians … , but IHS cannot do so without a request from the tribe it serves." *Id.* (citing § 1680c(c)(1) and (2)). But this shows only that, whether the program is operated by IHS or a Tribe, the *Tribe* is in control of whether those healthcare services are offered.

Additionally, the government argues that IHS must use program income to ensure compliance with Medicaid and Medicare authorities, whereas a contracting Tribe can use that income on "any health care-related purpose." Pet. 20 (quoting § 1641(d)(2)(A)). But that ignores § 5325(m)(1)'s more specific requirement that program income be spent "to further the general purposes of *the contract*." (emphasis added). Moreover, the government's argument relies on a distinction without

a difference; both IHS and Tribes must reinvest program income into healthcare.

4. In any event, this Court need not go so far as to hold that services funded by program income are actually part of "the Federal program" (although they are), because ISDA requires only that the expense be incurred "*in connection with* the operation of the Federal program." § 5325(a)(3)(A)(ii) (emphasis added). As the court below recognized, "in connection with" "contemplates that there are at least some costs *outside* of the Federal program itself that require [contract support costs]." Pet. App. 11a. Indeed, this Court has given statutes containing the phrase "in connection with" a broad interpretation. See, *e.g.*, *Montana* v. *United States*, 139 S. Ct. 1826, 1832 (2019) ("The Court has often recognized that 'in connection with' can bear a 'broad interpretation.'" (quoting *Merrill Lynch, Pierce, Fenner & Smith Inc.* v. *Dabit*, 547 U.S. 71, 85 (2006))); *Merrill Lynch*, 547 U.S. at 85 ("[W]hen this Court *has* sought to give meaning to the phrase ['in connection with'] in the context of § 10(b) and Rule 10b-5, it has espoused a broad interpretation.").

Thus, even if services funded by program income are not literally part of the "program," as the government argues (incorrectly), Pet. 15–16, they certainly are, at a minimum, "in connection with the operation of the Federal program." These services are funded by income generated by the operation of the Federal program, and they fulfill the Tribe's statutory and contractual obligation to use all "program income … to further the general purposes of the contract" pursuant to which the Tribe operates the Federal program. § 5325(m)(1). The "connection" to the operation of the Federal program is clear, close, and direct. The petition's silence on this point speaks volumes.

B. The overhead expenses at issue also fall within § 5325(a)(2).

As the government acknowledges, § 5325(a)(3) clarifies the contract support costs encompassed by § 5325(a)(2). Pet. 4. Because, as just explained, the expenses at issue fall squarely within § 5325(a)(3), the Court need not separately parse § 5325(a)(2). But even without § 5325(a)(3)'s clarification, the expenses at issue fall within § 5325(a)(2).

1. Section 5325(a)(2) requires reimbursement "for the reasonable costs for activities which must be carried on by a tribal organization as a contractor to ensure compliance with the terms of the contract and prudent management." Because the statutes and the contract require both the collection of revenues from third-party payors and the use of all program income on the program (as the Ninth Circuit recognized and as explained in detail above), failure to do so would put the Tribe out of compliance with the contract. Pet. App. 8a–9a. As a result, those activities "must be carried on … as a contractor to ensure compliance with the contract." Thus, the costs incurred in complying with those obligations are fully reimbursable.

2. The government's contrary interpretation adds language to the statute that does not exist. The government argues that § 5325 "establish[es] that IHS owes contract support costs to 'support' the program transferred under the contract *and funded by the Secretarial amount*." Pet. 15 (emphasis added); see also *id.* at 15–16 (same). But that language does not appear in the statute. As the Ninth Circuit explained, "§ [5325](a)(2) does not limit [contract support costs] to activities … 'funded by the signatories to the contract.'" Pet. App. 10a. "Rather, it authorizes payment … for *all* activities—regardless of funding source—that are required for compliance with the Contract."

Id. If Congress had wanted to limit contract support costs to activities performed pursuant to the contract *and* "funded by the Secretarial amount," it could easily have said so. But it did not. See *Ali* v. *Fed. Bureau of Prisons*, 552 U.S. 214, 227 (2008) ("Had Congress intended to limit § 2680(c)'s reach as petitioner contends, it easily could have written 'any other law enforcement officer *acting in a customs or excise capacity*.' Instead, it used the unmodified, all-encompassing phrase 'any other law enforcement officer.'"). This Court should give effect to Congress's choice.

C. The other provisions on which the government relies are not to the contrary.

The government attempts to explain away the definition of "contract support costs" in § 5325(a)(2)–(3) by pointing to other parts of the statute. Each of those arguments fails.

1. The government contends that § 5325(m)(2) supports its interpretation, because it states that program income "shall not be a basis for reducing the amount of funds otherwise obligated to the contract." According to the government, this "makes it exceedingly unlikely that Congress implicitly meant for such revenue to *increase* the Secretary's obligation to pay contract support costs." Pet. 22. That is a non sequitur. Congress forbade IHS from decreasing the funding it provides to Tribes on account of program income; but that says nothing about whether IHS must reimburse Tribes for the additional overhead expenses they incur when spending program income to provide more services pursuant to the contract.

In any event, the Tribe's interpretation does not rely on anything "implicit" in the statutory language. The plain language of § 5325(a) makes clear that overhead costs incurred in spending program revenues from

third-party payors on the program are reimbursable. The implication that the government (improperly) reads into § 5325(m)(2) cannot override the straightforward language of § 5325(a). See *Winkelman ex rel. Winkelman* v. *Parma City Sch. Dist.*, 550 U.S. 516, 530 (2007) (rejecting argument that statute "excluded by implication" a certain group, because the argument was "contradicted by the statutory provisions").

2. The government also points to § 5326, which states that IHS may reimburse Tribes "only for costs directly attributable to [ISDA] contracts," and not for "indirect costs associated with any contract … entered into between an Indian tribe … and any entity other than [IHS]." The government argues that spending program income obtained from third parties is not "directly attributable" to a Tribe's ISDA contract because it "does not come about as an immediate result of [the Tribe's] contract with IHS." Pet. 18. This argument, however, ignores the statutory and contractual requirements that Tribes collect program income and spend it to "further the general purposes of the contract," § 5325(m)(1), as described above. The Tribe operates the healthcare program, collects program income, and then spends that program income on additional healthcare services only because of, and as required by, its ISDA contract with IHS. That makes the contract supports costs "directly attributable" to the ISDA contract. The Tribe's collections and expenditures of program income from third-party payors are traceable in a direct line to its ISDA contract.

The government further argues that activities funded by program income "are 'associated with' funds the Tribe receives pursuant to 'contract[s]' with entities 'other than the Indian Health Service,' such as agreements with private insurers, Medicaid, and Medicare." Pet. 19 (internal citations omitted). As Judge

Eid explained in rejecting this argument, however, such a broad reading would vitiate § 5325's funding of contract support costs, because most, if not all, of the expenses traditionally covered by contract support costs could involve contracts with third parties. *N. Arapaho*, 61 F.4th at 826–27 (Eid, J., concurring in the judgment) (citing as examples contracts with insurers for workers' compensation insurance and contracts with accounting firms for tax and auditing services); see *United States* v. *Jicarilla Apache Nation*, 564 U.S. 162, 185–86 (2011) (rejecting interpretation that would vitiate portions of the statute). The government also ignores that Tribes do not need contracts with third parties to collect program revenue. They have a statutory right to collect it, even without a contract with the third-party payor. § 1621e(a). Indeed, "no provision of any contract … shall prevent or hinder" a Tribe's "right of recovery." § 1621e(c).

Moreover, the costs incurred when *spending* program income on additional services are "associated with" the ISDA contract with IHS—and not with any contract between the Tribe and any entity other than IHS—for the same reason that such costs are "directly attributable" to the contract. They are costs that the Tribe would not have incurred had the Tribe not contracted with IHS to operate the program. This is not a situation like the one that prompted passage of § 5326, in which a Tribe was attempting to make IHS responsible for overhead costs attributable to funds spent to carry out entirely different programs pursuant to contracts with different agencies. See *Ramah Navajo Chapter* v. *Lujan*, 112 F.3d 1455 (10th Cir. 1997); Pet. 13a–14a (describing the circumstances surrounding the passage of § 5326). Although it is, of course, the text that ultimately controls its interpretation, this

Court should not blind itself to the circumstances giving rise to the provision's passage.

D. If there were any doubt, the Indian canon resolves it in the Tribe's favor.

The Tribe's reading is the only correct one based on the statute's plain meaning, as described above. But were there any doubt, that ambiguity must be resolved in the Tribe's favor. "[S]tatutes are to be construed liberally in favor of the Indians, with ambiguous provisions interpreted to their benefit." *Montana* v. *Blackfeet Tribe*, 471 U.S. 759, 766 (1985). At best, the government's arguments establish doubt, but lack of clarity must be construed in the Tribe's favor.

Indeed, Congress here expressly *required* that the Indian canon be written into every self-determination contract. § 5329(c) (model agreement § 1(a)(2)). Each contract—including the one here—includes a provision stating that "[e]ach provision of [ISDA] and each provision of this Contract shall be liberally construed for the benefit of the Contractor." *Id.* In fact, so important was this presumption to Congress that it recently amended the statute to require that "each provision of [ISDA] and each provision of a contract or funding agreement shall be liberally construed for the benefit of the Indian Tribe participating in self-determination, and any ambiguity shall be resolved in favor of the Indian Tribe." § 5321(g). Thus, in this case, the Indian canon is a statutory and contractual requirement, not just a general interpretive principle.

Because the government's interpretation is not correct—much less "clearly required by the statutory language," as would be required for the government to prevail here, *Salazar* v. *Ramah Navajo Chapter*, 567 U.S. 182, 194 (2012)—this Court should reject it.

II. THIS ISSUE IS IMPORTANT TO INDIAN TRIBES.

The government is correct that this issue is important enough to warrant this Court's review, but the reason it gives—primarily a concern about financial impacts—is misplaced. Tribal healthcare programs are seriously underfunded, resulting in significant and longstanding health disparities. The government's position only exacerbates the lack of funding for these underserved communities by requiring Tribes to spend their own money to pay for increased overhead costs associated with the expenditure of program income, money the Tribe would otherwise reinvest in the program (just as IHS would and could do if it were operating the program). Resolving the split among the circuits is important to ensure that all Tribes can recover the contract support costs they are due.

1. IHS itself has acknowledged the sad state of American Indian health metrics, and used those statistics to justify requests for increased congressional funding. Dep't of Health & Hum. Servs., *Fiscal Year 2024, Indian Health Service: Justification for Estimates for Appropriations Committees*, at CJ-3 (2023) (hereinafter, 2024 CJ). For example, American Indian life expectancy is 10.9 years shorter than the U.S. all-races population, and American Indians "experience disproportionate rates of mortality from most major health issues." *Id.*

Part of the reason for these health disparities is that funding for tribal healthcare programs is woefully inadequate. A 2018 report by the U.S. Commission on Civil Rights found that "Native American health care has been chronically underfunded," and IHS's annual budget meets "only a fraction of the Native American health care needs." U.S. Comm'n on Civil Rights, *Broken Promises: Continuing Federal Funding Shortfall*

for Native Americans, at 66–67 (2018). IHS agrees. Its budget proposal describes the "chronic underinvestment in IHS," 2024 CJ at CJ-2, which has resulted in "persistent health disparities" in American Indian communities, *id.* at CJ-3. A Department of Health & Human Services report found that, "[a]mong the major entitlement and non-entitlement federal health care programs, per capita spending is the lowest for IHS at $4,078, compared to $8,109 for Medicaid, $10,692 for the Veterans Health Administration (VHA), and $13,185 for Medicare." ASPE, Office of Health Policy, How Increased Funding Can Advance the Mission of the Indian Health Service to Improve Health Outcomes for American Indians and Alaska Natives, at 14 (2022). And even those figures likely understate the governmental funding disparity, as the amount reported for IHS includes both appropriations and program income. *Id.* Stunningly, as of 2012, the level of need at which IHS was funding healthcare for the San Carlos Apache Tribe was a paltry 45.8%. IHS, *FY 2012 Allocation & Expenditure Guidance for Indian Health Care Improvement Fund (IHCIF)*, at 13 (2012).[6]

2. Closing the healthcare gap requires funding. IHS itself has described program income as "a significant part of the IHS … budge[t]." 2013 CJ at CJ-141. In fiscal year 2013 (one of the years at issue here), program income ("collections") contributed over $900 million to IHS's budget of approximately $4 billion, *id.*, which IHS then reinvested in the programs and facilities that generated those revenues, *id.* at CJ-14. In fact, to this day, IHS continues to describe program income as "a significant portion of the IHS and Tribal health care delivery budgets," and program income collections

[6] *Available at* https://www.ihs.gov/sites/ihcif/themes/responsive2017/display_objects/documents/2011/FY_2012_AllocationandExpenditure.pdf.

have only increased. 2024 CJ at CJ-193. In fiscal year 2023, IHS projects collecting over $1.75 billion in program income. *Id.*

This program income can be critical to the financial viability of a healthcare program. "Some IHS health care facilities," for example, "report that 60 percent or more of their yearly budget relies on revenue collected from third party payers." *Id.* And IHS has explained that "[t]he collection of third party revenue is essential to maintaining facility accreditation and standards of health care." 2013 CJ at CJ-141.

An example illustrates the point. In *Pyramid Lake Paiute Tribe* v. *Burwell*, IHS was spending $502,611 to operate an emergency medical services program. 70 F. Supp. 3d 534, 538 (D.D.C. 2014). But when a Tribe proposed to take over the program under ISDA, IHS claimed that only $38,746 was supported by IHS program funding that could be transferred to the Tribe as the secretarial amount (and on which IHS would pay contract support costs). *Id.* at 544. IHS funded the remaining costs from other sources, including $102,711 in program income. *Id.* at 538–39. In other words, program income made up almost *three times* the secretarial amount; yet, if IHS transferred the program to the Tribe, the Tribe (in IHS's view) would recover overhead costs only for the initial $38,746.

In light of the critical role that program income from third parties plays in funding healthcare programs, certainty about the implications of spending that income—and in particular its effect on contract support cost reimbursements—is essential for Indian Tribes providing care to their communities.

3. Given that tribal healthcare programs already are severely underfunded, it is also essential that resources be spent providing care rather than be

diverted to overhead. The government's refusal to reimburse Tribes for the additional overhead expenses they incur when spending program income to provide more services pursuant to the contract does not make those costs disappear. Rather, Tribes must then use resources they otherwise would have spent on healthcare to cover those increased costs.

Again, the circumstances in *Pyramid Lake* illustrate the point. When transferred to the Tribe, the program would still cost $502,611, and would still incur the overhead expenses that a $502,611 program generates. But IHS would provide the Tribe only $38,746, plus contract support costs on that amount. The Tribe could also collect third-party income (approximately $100,000, based on IHS's experience), but under the government's theory, IHS would still not pay contract support costs on that added amount. Instead, the Tribe would have to divert some of the approximately $140,000 available for the program—already only about a quarter of what IHS was spending when it operated the program itself—to pay for overhead costs. A Tribe cannot be on equal footing with IHS when it must operate the same program with only a fraction of the funds. Yet that is the result of the government's interpretation.[7]

The government nevertheless contends that this "rationale for IHS's payment of contract support costs …

---

[7] In *Pyramid Lake*, the district court eventually ordered IHS to pay the Tribe the entire $502,611 that IHS was using to operate the program as the secretarial amount. *Pyramid Lake Paiute Tribe* v. *Burwell*, No. 1:13-cv-01771 (CRC), 2015 WL 13691433 (D.D.C. Jan. 16, 2015). A subsequent decision by the D.C. Circuit, however, narrowed *Pyramid Lake*'s interpretation of the secretarial amount available under § 5235(a)(1), further limiting the amount of funding available to Tribes. *See Fort McDermitt Paiute & Shoshone Tribe* v. *Becerra*, 6 F.4th 6, 13–14 (D.C. Cir. 2021).

has no application in the context of" program income. Pet. 19. This is so, the government says, because, "[w]hile federal law obligates tribes to use reimbursement income for health-related purposes, those statutory mandates are not unfunded—the third-party revenue itself is the funding." *Id.* at 19–20 (citing §§ 1641(d)(2)(A), 5325(m)(1)). The flaw in the government's argument is that the problem was never that contract support costs were "unfunded"; the problem was that the lack of reimbursement for them put IHS and Tribes on unequal footing, such that a program operated by a Tribe had significantly fewer resources to devote to providing actual services since it had to divert resources to overhead costs that IHS did not incur when it operated the program. Congress specifically wanted to avoid a situation in which Tribes would "be compelled to divert program funds to prudently manage" their programs, thereby reducing funds available to provide care. 1994 Senate Report at 9.

That "rationale" applies equally to expenses incurred in spending program income to provide more services. If IHS were operating the program and collecting, then spending, program income from third parties, IHS would not have to divert some of that income to cover contract support costs—which, by definition, are costs that IHS does not incur or that are funded outside of the IHS program. § 5325(a)(2). Instead, IHS can (and does) reinvest all of that program income back into the program. See 2013 CJ at CJ-14 (allocating all program income to IHS's "clinical services" budget). Yet, under the government's interpretation, when a Tribe operates the same program, the government expects the Tribe to use some of that program income to "fund" the contract support costs, meaning the Tribe has fewer resources to provide the same services that IHS provided. This is precisely the

result that Congress sought to avoid when it required IHS to pay contract support costs. See 1987 Senate Report at 16 (explaining Congress's goal that Tribes have enough resources to deliver "at least the same amount of services" that IHS would have provided if it had continued operating the contracted program).

In short, the Tribe's request for reimbursement of contract support costs is not a cash grab, as the government implies. Pet. 26–27.[8] Rather, it is the Tribe's attempt to obtain the funding it needs and deserves under the statutes to start closing the healthcare gap, without having to use resources that should be spent providing services to pay for overhead expenses that should be covered by contract support costs. Requiring payment of these contract support costs puts the Tribe closer to the equal footing with IHS that Congress intended. See 1987 Senate Report at 16.

The Court should grant the petition to resolve the circuit conflict and make clear that IHS must reimburse all contracting Tribes for the overhead expenses they incur when spending program income from third parties on additional services under the program.

---

[8] Reimbursement of expenses incurred when spending program income will certainly increase the amount that IHS owes to contracting Tribes, although even the government recognizes that it is unclear by how much. *See* Pet. 26. In any event, as this Court has twice held, IHS's view that reimbursing a Tribe's contract support costs is too expensive is not a basis to permit IHS to withhold it, much less a reason to give the Act an unnatural reading. *See Ramah Navajo*, 567 U.S. 182; *Cherokee Nation*, 543 U.S. 631. Moreover, the government's concern that reimbursing contract support costs will endanger other IHS priorities is misplaced given that IHS's most recent Congressional Budget Justification asks that Congress make "a mandatory indefinite appropriation for Contract Support Costs." 2024 CJ at CJ-6. Although Congress has not yet passed IHS's proposal, IHS's request demonstrates that this issue can be resolved legislatively.

CONCLUSION

The Court should grant the petition for a writ of certiorari and affirm.

Respectfully submitted,

CARTER G. PHILLIPS
VIRGINIA A. SEITZ
ERIC D. MCARTHUR
SIDLEY AUSTIN LLP
1501 K Street, NW
Washington, DC 20005

CHELSEA A. PRIEST
SIDLEY AUSTIN LLP
2021 McKinney Avenue
Dallas, TX 75201

LLOYD B. MILLER*
REBECCA A. PATTERSON
WHITNEY A. LEONARD
CHLOE E. COTTON
SONOSKY, CHAMBERS, SACHSE, ENDRESON & PERRY LLP
1425 K Street, NW
Washington, DC 20005
Telephone: (202) 682-0240
Lloyd@sonosky.net

Counsel for Respondent

* Counsel of Record

October 11, 2023