

# NATIVE AMERICAN ECONOMIC POLICY REPORT

DEVELOPING TRIBAL ECONOMIES  
TO CREATE HEALTHY, SUSTAINABLE, AND  
CULTURALLY VIBRANT COMMUNITIES



## NATIONAL NATIVE AMERICAN ECONOMIC POLICY

PRODUCED BY  
National Congress of American Indians  
AND THE  
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2007

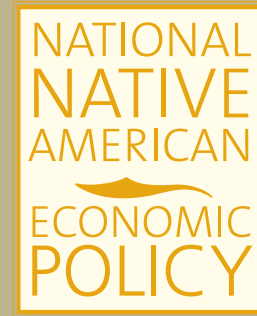
*“Markets and commerce were not  
invented in Europe. When Columbus  
made shore, Indians...had already  
developed a broad and complex  
commercial network.”*

—DIRK KEMPTHORNE, SECRETARY OF THE DEPARTMENT OF  
THE INTERIOR, KEYNOTE ADDRESS, NATIONAL NATIVE  
AMERICAN ECONOMIC POLICY SUMMIT, MAY 15TH, 2007

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# Report Intent



Although the White House Intergovernmental Affairs initiative and the Department of the Interior initiated and underwrote the National Native American Economic Policy Summit (Summit), the resulting policy recommendations and the subsequent policy report entitled Native American Economic Policy Report 2007 reflect Summit participant views and recommendations and not necessarily those of the federal government.

The recommendations and report are the direct product of a series of meetings with tribal leaders and other vested partners affected and influenced by Native American economic policy issues. The White House and DOI support the public dissemination of the report, but this does not in anyway imply endorsement for the recommendations or the report.

# Introduction

During the National Native American Economic Policy Summit (Summit) held in Phoenix, Arizona, May 15-17, 2007, over 500 key stakeholders gathered to discuss the challenges to growing healthy, vibrant Native economies. In addition to identifying challenges, participants were asked to recommend innovative and progressive solutions to foster economic growth. The highly-successful Summit, born out of a White House Intergovernmental Affairs (WHIA) initiative, was hosted by the Office of Indian Energy and Economic Development within the Department of Interior and the National Congress of American Indians (NCAI).

The Summit was organized around three tracks: Infrastructure, Capital and Finance, and Business Development. Since many of the policy solutions transcended individual tracks, the report is organized around categories that summarize common policy challenges. The report identifies 100 recommendations for policy change.

## THE IMPORTANCE OF VISION

Participants were encouraged to envision the future they would like to see for Indian Country, and asked to recommend innovative and progressive solutions to move toward that vision. The development of a collective vision for the economic future of tribal communities, and the shift from a problem-centered to a vision-focused approach, is what made this Summit so unique. Over three days of presenting ideas and facilitated discussion, participants were challenged to think beyond existing programs and barriers and create a shared vision – where Native economies foster the development and growth of strong Native communities.

Traditionally, Native leaders and communities placed significant value on vision and long-term planning. Today, despite the increasing sophistication of tribal governments and the scope and complexity of issues, Native communities often deal with results in an approach largely focused on reacting to challenges immediately before them and solving problems.

Planning group members and participants in the Summit made a deliberate decision and concerted effort to focus on vision and creating a different future for Native communities. This approach is in sharp contrast to brainstorming exhaustive lists of intractable problems that our communities have struggled with for decades with incremental steps attempted at solving each one. Focusing on creating a collective vision for the future of Native economies gave Summit participants the freedom to dream beyond the current economic reality and develop strategies to create the future that Native people and tribal governments desire.

## OVERARCHING THEMES

Throughout the course of the Summit, a number of issues were raised repeatedly in all three of the substantive tracks as well as the plenary session. Some of these issues can be seen as guiding principles that should be a backdrop to any conversation about tribal development. Others are foundation pieces that will undergird successful tribal development efforts. These overarching themes are summarized below:

### STRENGTHEN SOVEREIGNTY AND TRIBAL GOVERNANCE

Summit participants stressed that a key component of tribal development is strengthening tribal sovereignty through constitutional reform, institution building, and tribal code development.

### TRIBAL SELF-SUFFICIENCY & TREATY RIGHTS

Related to the concept of strengthening tribal governance, participants stated that tribal development efforts need to move tribes toward self-sufficiency while at the same time working to protect treaty rights and the obligations of the federal government toward Indian people.

### CULTURAL RELEVANCY & COMMUNITY INVOLVEMENT

Participants made clear that development must be conducted in a way that is culturally relevant and that involves the community to the greatest extent possible.

### COMMUNITY PLANNING

Many Summit attendees stressed the need for community planning as a first step in developing healthy, vibrant communities. Participants repeatedly affirmed that tribal planning efforts should be: 1) comprehensive in nature, 2) rooted in tradition and culture, 3) community-driven, and 4) supported by federal policy.

### HUMAN DEVELOPMENT

Financial, Business, and Leadership Training - The need for training for tribal citizens and tribal leaders was raised in a variety of contexts. Participants highlighted the need for financial, business and leadership training for tribal leaders. They also stressed the need to develop a well-trained, financially savvy citizenry and workforce.

### PARTNERSHIPS: BETWEEN TRIBES AND BEYOND

Inter-tribal collaboration and business partnerships that reach beyond borders were a major topic of discussion at the Summit.

### COMMUNICATION: SHARING BEST PRACTICES

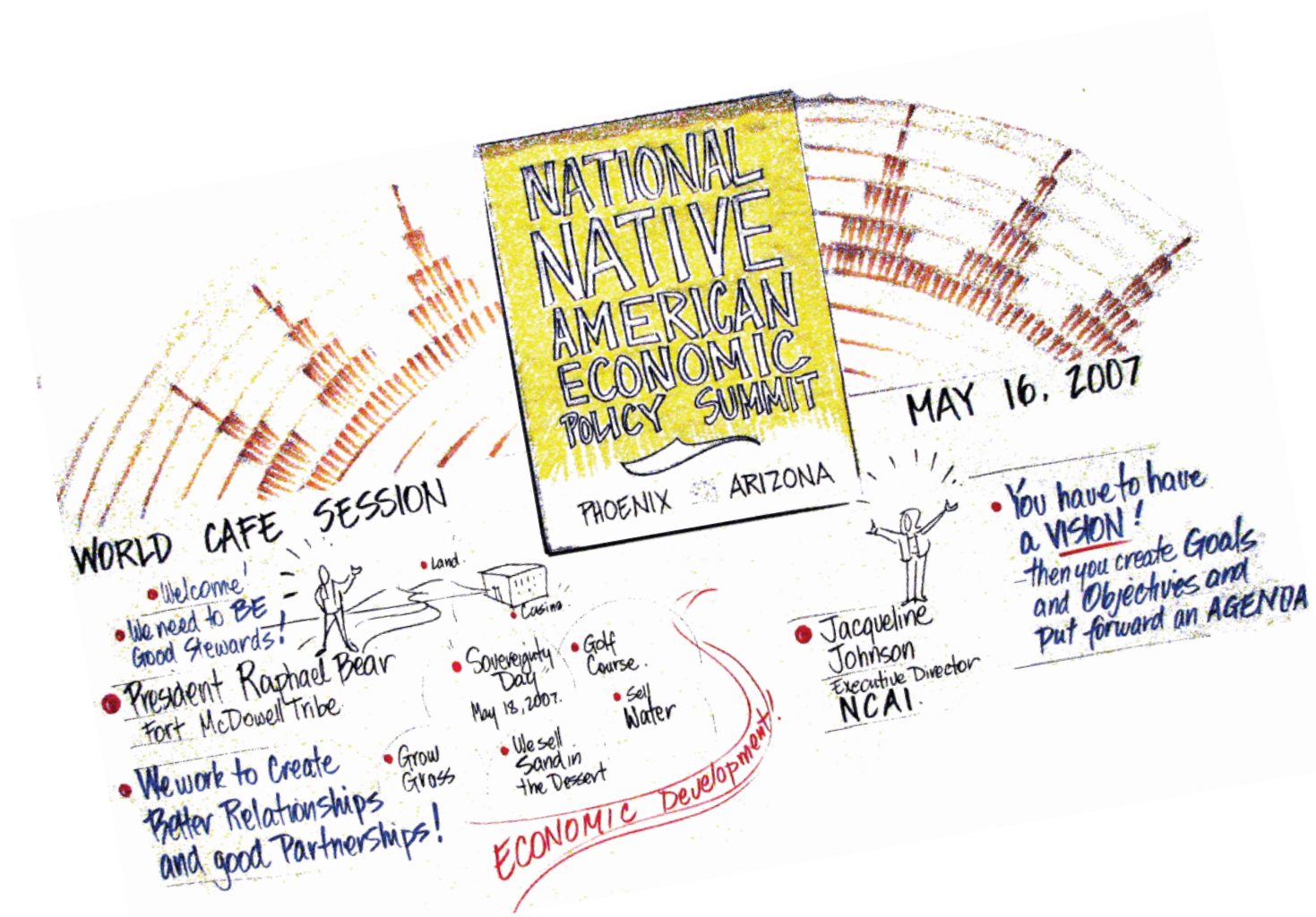
In addition to opportunities for inter-tribal commerce, participants stressed the need for increased information sharing among tribes. Participants expressed a strong desire for opportunities to share best practices and innovative approaches with other tribes.

### STRONG INTERGOVERNMENTAL RELATIONSHIPS

Summit participants repeatedly acknowledged the importance of intergovernmental relationships between tribes, the states, and the federal government.

### PUBLIC AND POLICY-MAKER EDUCATION

Participants also recognized the importance of educating the public and policy-makers about the contemporary reality of Indian tribes.



# Strengthening Governance

The broad concept of strengthening governance emerged as a theme that cuts across Summit track discussions and will impact the effectiveness of many other strategies. Both the vision for a better economic future, and the path to achieving it, require a range of efforts to improve the governing institutions and governance practices in tribal communities.

## LAW REFORM

In addition to the common discussion within and among tribal communities about the need to explore constitutional reform, Summit participants engaged in a broader conversation about the necessary legal framework of tribal governance. This discussion included, but is not limited to, the need to consider reforming constitutional documents. Critical needs identified by Summit participants included enacting codes to create a transparent, business friendly environment. Specifically, Summit participants recommended that in order to attract business, develop business partnerships and attract capital to the reservations, tribes needs to have secured transaction and business codes in place that are transparent and enforceable.

Summit participants recommended that tribes work toward developing a model for tribal investment and collaboration on projects to facilitate inter-tribal investments and joint projects. Tribes also should have tribal corporation status clarified to protect investment and jurisdiction.

Specific policy solutions that were offered by Summit participants include recommendations to:

1. Conduct a detailed conversation at the tribal, regional and national level, to consider the range of options for tribes to reform their governing documents, including tribal constitutions and codes (and those governance structures and institutions that are not related to specific documents).
2. Create best practices for legal, business and transaction codes that are transparent and able to be customized for tribal uses.
3. Develop commercial codes that can be adopted or customized by each tribe and share best practices to continue development, attract growth, and protect intellectual property. Develop a dispute resolution forum for business.
4. Develop a business licensing program for those wishing to establish reservation or member-based businesses.
5. Clarify corporation law (i.e. Section 17 of the Indian Reorganization Act) for the purposes of developing Uniform Commercial Codes.



## COMMUNITY PLANNING

Summit participants also identified the need for community planning. Participants noted that planning is required to integrate all aspects of a sound economy and to facilitate an effective and efficient strategy for growth. In addition, planning and community involvement are needed if the tribe is to sustain internal political support for development projects. Participants repeatedly affirmed that tribal planning efforts should be: 1) comprehensive in nature, 2) rooted in tradition and culture, 3) community-driven, and 4) supported by federal policy. Specific policy solutions that were offered by Summit participants include recommendations to:

6. Encourage agencies to fund and support tribal efforts to engage in planning. This especially applies to agencies that focus only on one aspect of development without understanding the importance of how that element may or may not fit into a tribe's overall development plan. The availability of comprehensive planning funds should serve to make agency funds more effectively utilized.
7. Develop programs to train tribal citizens and tribal leaders about developing the necessary elements of tribal economies and planning. Summit participants stressed that the needs of private and tribal member-owned businesses must be considered in tribal planning efforts.
8. Utilize the Workforce Investment Act as a tool in planning and a component in developing tribal resources needed for sustained economic development.

## TRUST REFORM

Land and natural resources are the primary economic asset in most of Indian country, but reservation economic development struggles under an antiquated and complex federal trust management system that moves slowly and uncertainly on land transactions and leasing. Indian tribes are committed to retaining the federal trust responsibility, but want to reform the system to increase tribal management authority and streamline processes that support economic transactions. Fractionation of allotted lands dramatically decreases land productivity and has become a heavy burden on the trust system.

9. Increase tribal control over reservation land management and trust systems. Provide for comprehensive land use planning and a trust asset management agreement authorizing the tribe to lease land without the approval of the Secretary of Interior.
10. Amend the Indian Land Consolidation Act to streamline land acquisition procedures and create incentives for voluntary sales of fractionated interests by allowing the Secretary to offer more than fair market value.

11. Create a single line of authority for trust functions that are now split between the Bureau of Indian Affairs (BIA) and the Special Trustee, and create an Under Secretary of Indian Affairs to supervise any activities related to Indian affairs across all divisions of the Department of Interior.
12. Increase funding for the title system and prioritize economic transactions (mortgaging and homeownership).
13. Develop tribal laws for system of leasing or assignments to tribal members to make land available to individual entrepreneurs and homeowners. Encourage tribes to utilize Section 17 corporations to lease tribal land based on business considerations.

## FINANCIAL MANAGEMENT SKILL DEVELOPMENT

Summit participants stressed that tribal members are central and vital 'assets' that tribes can invest in to transform their communities. This investment will reap dividends at all levels. School and community-based strategies can prepare Native youth to effectively manage their personal finances. These skills can be applied to successful careers as tribal leaders, entrepreneurs, non-profit leaders, or simply as engaged members of their tribal community.

Tribal leaders at the Summit articulated a desire to develop their own financial management skills in areas ranging from personal finances to investment and business management. Beyond financial skills, there is a need to strengthen tribal governance through the development of future leaders and invest in strategies to more effectively engage tribal members. Specific policy solutions that were offered by Summit participants include recommendations to:

14. Develop, implement, and fund a comprehensive financial literacy program for Native students K-12.
15. Fund the implementation of more specific training focused on investment and business management skills for tribal leaders and members.
16. Develop a loan forgiveness program for business and financial degree programs similar to the health and legal programs that have already shown a good measure of success in steering tribal youth toward needed tribal positions of responsibility and leadership.
17. Gather data to understand the trends among Indian-owned businesses, tribal economic growth, industry participation, sector participation and growth, and general economic conditions.

## INDIVIDUAL AND TRIBAL LEADER CAPACITY BUILDING

Beyond the critical role of financial management skills, Summit participants identified the need to build the capacity of tribal members in a range of areas. These areas included the marketable skills of tribal members so they could access a broader range of employment opportunities and the development of skills for tribal leaders to effectively lead their communities and grow their economies. Specific policy solutions that were recommended to:

18. Amend the Workforce Investment Act to provide for more flexible use of funding for economic development purposes.
19. Develop and deliver curriculum for leadership/governance training to build the capacity of tribal leaders.
20. Provide specific training for tribal leaders and business people to access a broader range of markets, including global opportunities.

## FINANCIAL JURISDICTION

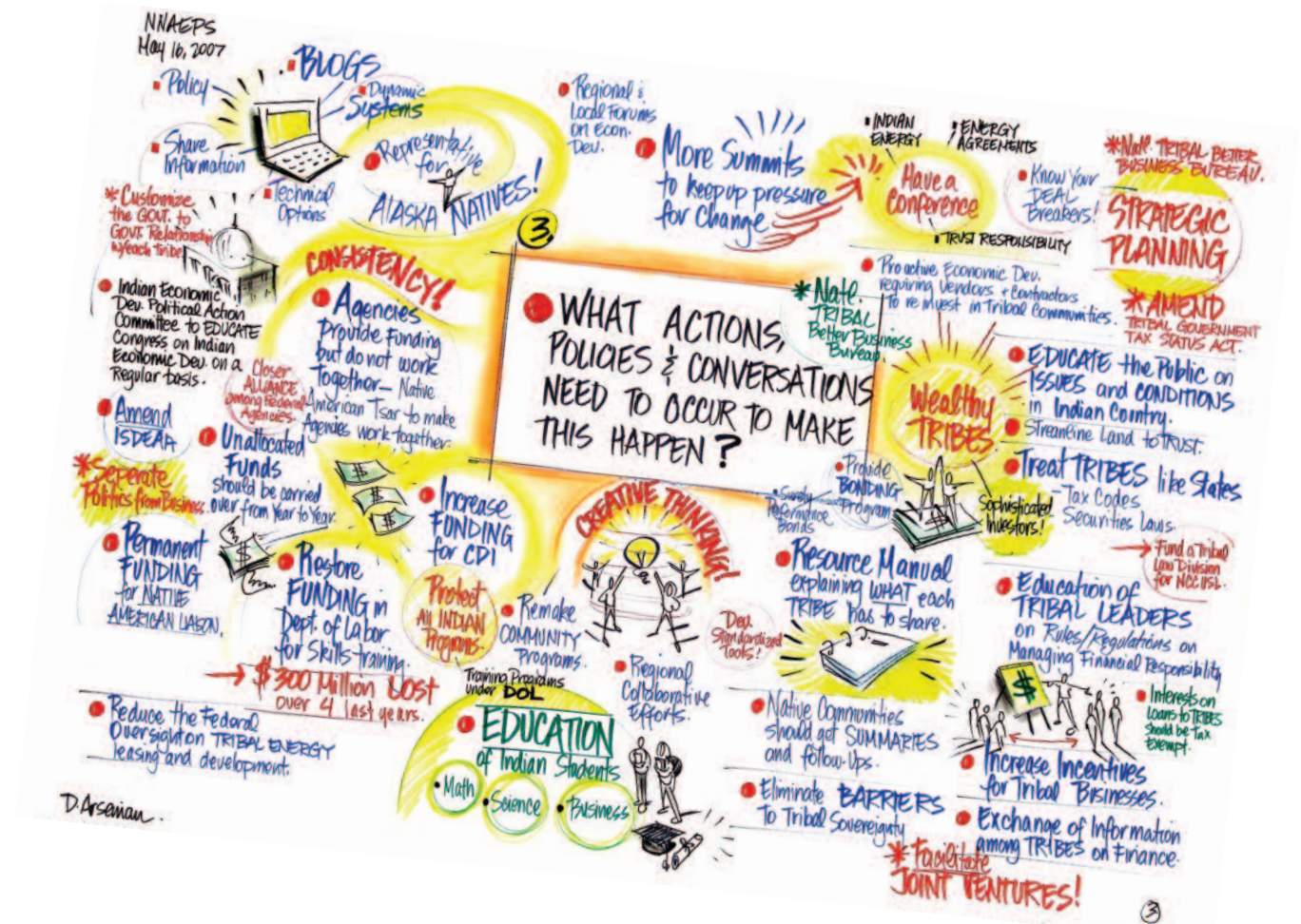
Many legislative instruments related to banking, investment and mortgage finance defer regulatory authority to the states. This situation undermines the ability of tribes to decide whether financial services firms can operate on their land and regulate financial activities. This limits a tribe's ability to deter predatory lending, choose tribal courts over arbitration for investment activities, and choose banks that are responsive to member and tribal needs. Specific solutions offered were to:

21. Amend federal legislation to allow tribes to 'opt-in' when a bank, investment firm or mortgage company considers creating branches or doing business on tribal lands.
22. Require federal agencies to recognize tribes as regulatory authorities over financial service firms wishing to do business or locate on reservations. This would allow tribes to regulate practices as states do and choose to adjudicate disputes under tribal jurisdiction.
23. Support tribes in their efforts to regulate financial services firms through the creation of model codes for tribes or regional authorities to customize, adopt, and monitor best practices.

## LAW ENFORCEMENT AND SOCIAL CONDITIONS

Many of the participants discussed concerns about lack of law enforcement and social conditions that make it difficult for the tribal population to be productive and ready to work. Concerns about domestic violence, drug trafficking, alcohol abuse and suicide are a general concern, but also affect workforce readiness.

24. Improve and measure the federal law enforcement response.
25. Create incentives to increase intergovernmental cooperation on law enforcement.
26. Enhance tribal law enforcement authority, particularly for dealing with domestic violence and substance abuse.
27. Improve drug and alcohol prevention and treatment.



# Infrastructure Development

Developing and controlling infrastructure components is a key element to creating a local tribal economy, as well as it is an assertion of autonomy. By localizing utilities like electric, water, and telecommunications, tribes effectively generate local jobs, control their resources and have the ability to use the utility to potentially generate additional tribal revenue by selling excess capacity or servicing external communities.

## GENERAL INFRASTRUCTURE DEVELOPMENT

There was an abundance of discussion about updating current utilities, transportation and other needed core infrastructure components to keep pace with existing local demand and allowing tribes the ability to access funds for future demand and growth. Specific policy solutions that were offered by Summit participants include recommendations to:

28. Make available a source of funds for comprehensive development planning so tribes can service existing utility and infrastructure needs and plan to meet growth needs when successful. It was also suggested that tribes should partner with Council for Infrastructure Finance Authority, states and other organizations for planning and partnerships.
29. Fund the existing (Title V) energy bonding provision to meet tribal needs and develop a program to provide tribes with sharable tax incentives for development of renewable energy resources.
30. Change the Rural Utility Service loan policy that prohibits tribes from accessing funds to acquire facilities that are already the subject of existing loan programs. This program prohibits tribes from owning their own utilities because of the lack of availability of low cost funds since it protects the existing utilities by not allowing funds to be used to acquire existing programs - creating a self-imposed barrier to entry.
31. Partner with states and local governments to utilize existing energy efficiency programs. Regulations that govern efficiency and conservation programs should include tribal governments.
32. Train local tribal members to manage utility programs. Build member capacity by developing a transition or management programs as a part of BIA-managed programs.
33. Expand access to broadband access by passing the Native American Connectivity Act, increasing the scope of the Universal Service Fund to include broadband and amending the Telecommunications Act to broaden the definition of "underserved areas." Work with regulators to include tribes in future ownership of telecommunications.
34. Expand the BIA Indian Reservation Roads transportation program funds to meet expanded tribal needs and build for future growth needs.

35. Consider tribal land rights and ownership when tribes regulate or operate utilities within their reservations. Legislation should clarify court cases that create confusion about tribal jurisdiction.
36. Allow tribes to lease facilities to service their population. This would make it more cost effective and risk averse by providing local service with adjacent utilities that service the local non-reservation community.
37. Very few tribes have been able to access licensed spectrum for public safety, telephone, community broadband or broadcast media purposes. Instead, industry has purchased spectrum licenses throughout Indian Country with very little benefit to the public interest of tribes or Native American consumers. Summit participants recommend that Congress require government-to-government consultation for spectrum management on tribal lands, and ensure tribal access and options for ownership and management of spectrum on tribal lands

## HOUSING INFRASTRUCTURE DEVELOPMENT AND HOME OWNERSHIP

In addition to the range of infrastructure needs addressed above, developing and improving housing infrastructure on tribal land is critical to the promotion of economic development in Indian Country. Without adequate housing, it can be difficult for tribal communities to attract and house the needed workforce. In addition, housing development can be a significant economic driver in tribal communities when local labor and materials are used.

Perhaps most importantly, home ownership in America has been credited with creating a middle class and serving as the biggest source of capital for business start ups and the main funding source for retirement, college and other life stage events. Because of reservation land status, title restrictions and jurisdictional issues, Native America has been left out. The policy recommendations focused on challenges in the mortgage lending process that create complex jurisdictional issues for lenders. The need to utilize alternative homeownership strategies can also expose tribal members to predatory lending and other risky financial practices. Specific policy solutions that were offered by Summit participants include recommendations to:

38. Support and advocate for the timely reauthorization of Native American Housing and Self-Determination Act (NAHASDA).
39. Develop a loan guarantee program that supports tribes in building housing and related infrastructure to promote economic development.
40. Establish a series of national meetings with agencies and tribes to develop agreements, define a simplified process and generate support for collaboration.

41. Work to develop a one-stop mortgage process and coordinate agencies and mortgage companies with tribes. Develop a streamlined mortgage approval process within tribes (ordinances and jurisdiction) and the federal agencies.
42. Develop a national mortgage service program to perform administrative due diligence so there is a greater incentive for mainstream mortgage companies and banks to participate in the Indian loan market and so loans can be consistently packaged and sold.
43. Build tribal capacity for developing ordinances, title process, and codes. Clarify jurisdiction and transaction processes to give tribes better control over citizen's housing needs, income requirements and legal issues. In the absence of tribal codes, tribes can work with states to establish interest rate ceilings and other regulations
44. Establish clear jurisdiction based on transparent codes for both tribal members and mortgage companies wishing to do business on the reservation and with tribal members. Establish a proactive debtor program to work with the member and the mortgage company long before default is imminent.
45. Support uniform adoption of the new Title Status Report process throughout BIA regions and continued expansion of tribally-operated title operations to alleviate the BIA backlog and speed up the process. A system should also be established to assign value to real property on reservations.

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#### WATER AND SEWAGE INFRASTRUCTURE DEVELOPMENT

Water use and disposal are key components in addressing tribal infrastructure needs. Many tribes are concerned with the lack of infrastructure to provide safe water and adequate sewage services to tribal homes and business on tribal lands and its effect on the advancement of economic development on tribal lands. Specific policy solutions that were offered by Summit participants include recommendations to:

46. Re-establish and fund the BIA Office of Water.
47. Increase funding for BIA Irrigation Projects to address the problem.
48. Create a National tribal training institute to equip tribes to deal with ground water, soil, surface water and related issues.
49. Lift the Moratorium by DOI on approval of Tribal Waters Codes so tribes can develop water codes.

# Access to Capital

Access to capital is fundamentally an issue of equal opportunity for tribal citizens. The issues surrounding access to capital, more than any other category, have solutions that require simple parity with similar non-tribal entities or suggest the utilization of existing programs that are already working in other economies. For example, tribes, as governments, should have the same access to capital markets and instruments as other government entities. Also, loan or pooled capital programs that are successful in other sectors and economies can be customized in a way that creates efficiency when applied to a larger tribal base like the micro-loan program.

## TAX EXEMPT BONDS

Economic development is hampered by the fact that tribes lack the same opportunities as states and local municipalities to be able to finance physical infrastructure, economic development and other governance programs. The IRS has not provided clear guidance on the government functions eligible for tax exempt bond issues. Therefore, tribes are raising money at higher rates and for shorter periods. This results in an added cost and higher repayments which directly influences the feasibility and cost-effectiveness of many tribal economic development strategies.

50. Issue an IRS ruling or enact additional legislation that would provide tribal parity with similar government entities.

## MARKET ACCESS

Not only do tribes have limited access to the lower interest tax exempt issues, but when bonds are issued in both tax exempt and other private equity issues, they are limited to raising capital from what the SEC defines as “qualified investors.” This limited access costs tribes money because the qualified market does not allow tribes to have institutional and retail investor participation. In the long run, this does not allow the market to evaluate issue risk. In addition, the annual reporting and registration requirements required for these issues are significant, creating an added financial and legal burden making many issues too expensive. In raising capital for other projects, including inter-tribal ventures, the SEC does not include tribes as “qualified investors.” This makes it difficult for tribes to participate in funding other tribal and private ventures.

51. Change regulations within the Securities and Exchange Commission to allow tribes to fully participate in raising funds in the open markets. Allow tribes to be exempt from registration in a similar manner as states and municipalities.

52. Place language in the regulations allowing tribes to be considered qualified investors.



## FINANCIAL INSTITUTION DEVELOPMENT

Lack of capital in Native economies is created in part by the notable absence of financial institutions serving tribal communities. This challenge has negative effects on the financial skills of tribal citizens, their access to a broad range of financial products and their chances to avoid predatory lending. Several legislative and regulatory instruments already exist to expand opportunities for tribes to offer access to financial institutions for their members, and ensure that financial institutions act ethically in their relationships with tribal communities. Specific policy solutions that were recommended to address this problem include:

53. Increase funding for the Community Development Financial Institution Fund's Native American Initiatives to meet the significant need for flexible and community-driven financial products and services, including the development of tribal credit unions and banks.
54. Provide funding to collect data on the state of financial institution access in Native communities and determine strategies that would be most effective in meeting financial services needs in tribal communities.
55. Strengthen the Community Reinvestment Act to provide further incentives to encourage bank branch development on Indian lands and regulate practices that reduce tribal access to financial institutions.

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## SMALL BUSINESS FUNDING

Tribes often lack funds to encourage small business development on their reservation. Support systems that encourage the development of entrepreneurs in certain tribal communities are essential to developing healthy and diverse economic systems. There is also a significant opportunity for tribes to collaborate and create pooled loan funds to serve their members in ways that leverage the efficiencies and resources of multiple tribal economies. Specific policy solutions that were offered by Summit participants include recommendations to:

56. Develop an inter-tribal pooled loan fund for business development at the regional and/or national level and share best practices. The program should infuse technical assistance and training to foster greater business success.
57. Support the development of micro-loan programs on a larger scale since the structural costs are often prohibitive for each tribe to run separate programs.
58. Establish tribal venture capital funds to promote further growth and allow for alternative funding and support of tribal and Indian-owned ventures.
59. Coordinate funding for the development of tribal member-owned businesses.

## INDIVIDUAL ACCESS

Many tribal members have access to some financial resources that could be better managed to increase their economic opportunities. Tribal, federal and state governments can offer incentives to encourage tribal citizens to make use of saving opportunities and to build their assets (through homeownership, education, small business ownership and others). They can also act in a coordinated way to ensure that barriers to asset building are not erected by predatory lenders and other unscrupulous actors. Specific policy solutions that were recommended to address this problem include:

60. Fund and expand access to existing programs, like matched savings accounts, to encourage tribal members to save for long-term assets like homeownership and develop their financial skills.
61. Develop programs that provide incentives for young people and others receiving per capita payments, to invest their money in higher yielding, longer term assets that will stabilize their financial position and expand economic opportunities.
62. Enact strong federal regulation to protect all communities from the negative effects of predatory lending. Encourage tribes and states to partner in effectively regulating practices that specifically affect Native communities.

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# Tax Policy

Tax policy is used by federal, state and other government entities to address social ills, steer fiscal policy, promote homeownership and spur investment. Federal law severely limits the taxation authority of tribal governments and their ability to utilize this effective tool. The policy solutions that were offered during the Summit focused on the inconsistent application of federal tax policy toward Indian tribes. Tribes and leaders were most concerned with seeking parity with states to be able to utilize existing policy in providing cost-effective infrastructure needs and economic opportunities.

## BUSINESS AND EMPLOYMENT TAX CREDITS

There is a lack of coordination between the renewal of tax credits for businesses that locate on reservations (renewed every two years) and the time allowed for depreciation as a capital investment incentive (up to 15 years). This lack of coordination sends a mixed message and tends to discourage investment. In addition, the varied status of tribal lands can permit businesses to take advantage of the tax credit without involving the tribes that the incentive was intended to benefit. The act also includes employment tax credits that primarily benefits non-Indian firms that generally do not coordinate their efforts with tribes.

63. Extend tax credit renewal periods to match the investment incentive so tribes can plan and recruit business partners and spur growth in tribal areas.
64. Tie both credits to tribal development plans, mandating Indian and non-Indian firms to work to benefit the tribes, as the Act intended.

## TRIBAL CORPORATION TAXATION

There is a pending IRS ruling that will address whether tribally-owned enterprises are taxable. Currently, there is a revenue ruling stating that tribal corporations (section 17) are not taxable, however, obtaining tribal corporate status requires approval by the Secretary of Interior. The approval process in Interior has not been as responsive as similar programs administered by state governments for non-Indian businesses. Overlapping taxation can also discourage business development in Indian Country. In many cases, resource development on reservations is taxed by the tribe and taxes are also allowable by the state, and in some cases, counties and other local governments. Solutions offered were:

65. The IRS should consider a rule whereby tribally-owned enterprises are not taxable by the state, local or other entities and avoid having the corporate burden placed on Interior. However, if it does fall within Interior, they should develop a simple process to quickly approve tribal corporations just as states have a transparent process for corporate approval which is coordinated with the IRS. Best practices should be shared to develop an effective process.

## FEDERAL FRANCHISE TAXATION

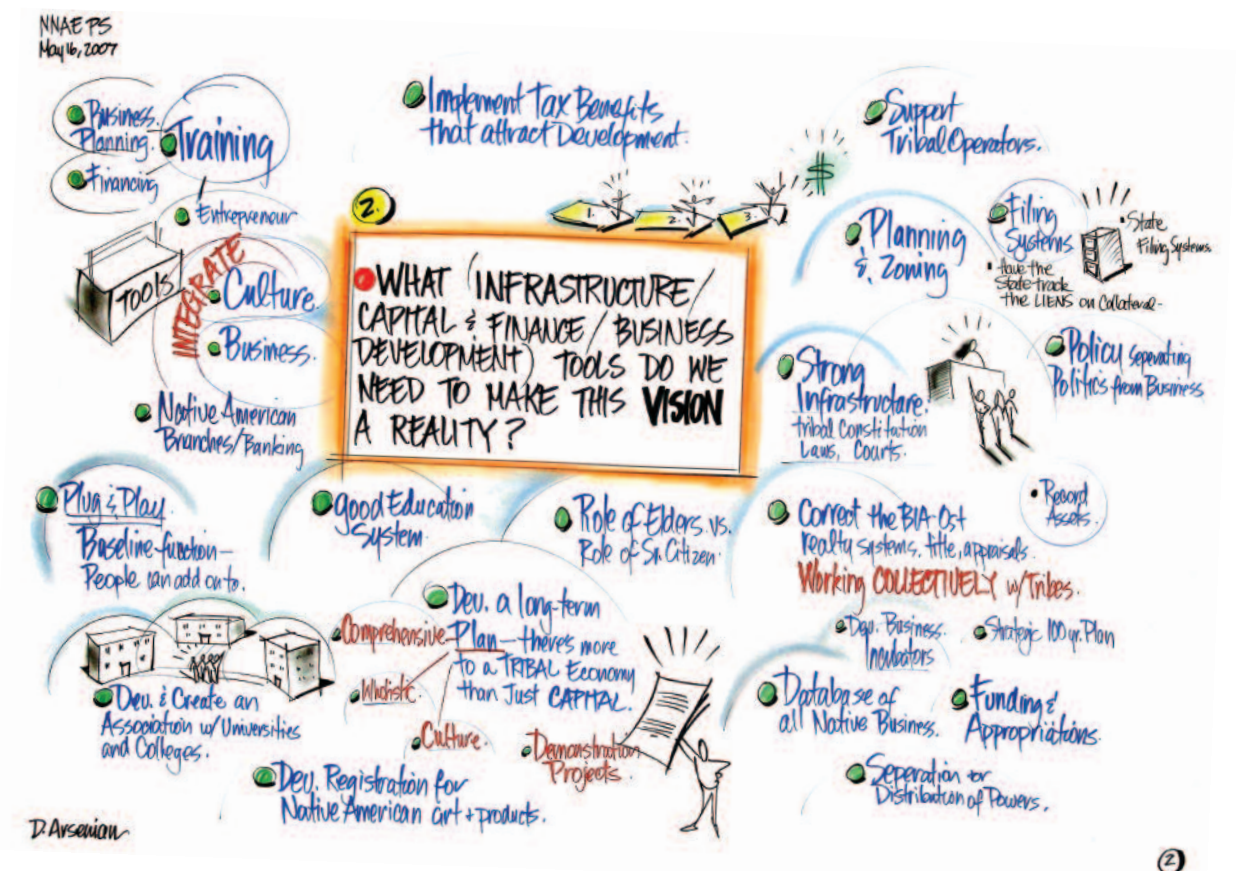
The federal franchise tax serves as a disincentive for expanding franchises onto reservations. The proposed solution is to:

66. Eliminate the tax to promote local franchise ownership on reservations.

## SALES AND USE TAXATION

Tribes should be included in a comprehensive plan to standardize the collection of sales and use tax. American Indians and businesses on their reservation are taxed by external jurisdictions with no revenue flowing back to the tribes. A solution was that:

67. Tribes should be included in any federal legislation that will implement the Streamlined Sales and Use Tax Agreement to be treated as states and territories if they wish to collect sales and use tax. States have already resolved to include tribes in the governing board for the Streamlined Sales and Use Tax Agreement as a sovereign entity.



# Business Development

While business development was the name of one of the Summit's three tracks, each track identified strategies that would remove obstacles to or improve the success of businesses owned by tribes and individual citizens. Tribes and business owners expressed an understanding for the need to coordinate and partner in developing and recruiting businesses. For both, there was a need for planning and training and to keep the government contracting programs and gaming enterprises intact. These programs are effective means of improving economic opportunities for community members, individual Indian business owners, and businesses in general.

Tribal leaders understood the need to offer a business friendly environment and develop support services needed for businesses to prosper.

## GOVERNMENT CONTRACTING

One of the most successful programs for tribes, especially rural tribes and Alaska Native villages, has been their participation in government contracting programs. Provisions in the Small Business Administration's (SBA) 8(a) program, designed to promote tribal, Alaska Native Corporations and village participation, are currently under scrutiny and threat of being scaled back. This affects a tribe's ability to plan, partner, contract and raise capital for new and existing ventures. In addition, the Buy Indian Act and HUB Zone Enterprises are not utilized consistently or as effectively as they could be. Recommended policy solutions include:

68. A number of solutions were proposed for the 8(a) contracting issues including leaving the successful program intact and allowing it to continue with the enforcement of existing oversight mechanisms already in place. Another suggestion was to separate the tribal, ANC and village program by placing it in a different category (with similar provisions for all Native entities) that separates it from the existing 8(a) program which was originally designed to assist individual business owners.
69. The BIA should primarily use Indian businesses to purchase goods and services, regardless of the contracting venue, and the Act should be utilized in other agencies.
70. Utilize the HUBZone Enterprise designation as a more effective tool in recruiting businesses to reservations. All Federal agencies are subject to the requirements of the HUBZone Program. The statute sets the goal for HUBZone contracts to be 3% of a Federal department's overall spend.

## VENDOR SUPPORT

Some federal agencies have programs that offer incentives for agencies and contractors who utilize Indian businesses when purchasing or providing goods and services. These policies go beyond direct federal purchases with the use of Department of Defence 5% contract incentive program available to companies that partner with Indian-owned companies. At the very least, tribes and their vendors should be making a similar effort when contracting with Indian-owned businesses and use their formidable purchasing power to effect vendor choices. Solutions offered were to:

71. Request vendors to actively recruit Indian-owned businesses to participate in their minority supplier diversification programs.
72. Tribes should adopt and make visible their Indian preference vendor policies and make an effort to involve Indian-owned businesses when securing a new product or service.
73. Tribes with successful businesses should offer training programs and mentor programs like federal and corporate buyers to recruit and develop Native business owners.

## BUSINESS PLANNING

Policy recommendations throughout all tracks expressed the need to access programs and funds for business planning. This was true for both individual and tribal businesses. Tribes need planning to create a sound infrastructure and a business environment that is friendly toward individual businesses. There is also a need for planning for individual businesses like performing a market analysis, creating business plans and mentoring. Funding for this type of planning is not readily available and the funding that does exist is in agencies or organizations that may not be familiar with tribal issues – all of which can make or break a business. Recommendations include:

74. Create and fund programs for tribes and individual businesses to access specific agency programs and funds that relate to tribal business development and form a planning area within Interior to meet the need of individual tribal business planning – possibly to be coordinated with the loan guarantee program.
75. Allow funding for planning from existing Indian organizations that are already established to perform planning and technical assistance services. This would include accessing funds from existing planning resources that are being distributed to states and other government entities which are not as equipped to service the unique tribal and Indian populations.
76. Provide funding for the SBA's Office of Native American Affairs to allow the office to more effectively service the Indian community and act as a clearing house for services and information – especially data collection on businesses, services, contracting and needs among other data sets.

77. Fund the legislative Native American initiative in the Department of Commerce currently in the Minority Business Development Agency to allow it to carry out its mandate of assisting Indian businesses. Coordinate the Commerce departments to gather data on Indian and tribal businesses that are not currently captured in the census.

## BUSINESS TRAINING

The success rate of individual businesses on a national level is marginal at best with the majority failing within three years. Without proper planning and training, the success rate drops to a level that may actually impede others from becoming entrepreneurs. Training for businesses owners is needed for individual businesses and tribes. Tribes should have access to training to be able to promote business ownership, establish proper codes to create a business friendly environment. Recommendations include:

78. Allow tribal organizations that already provide this service to partner with existing Small Business Administration Small Business Incubator Centers (SBIC) program. Establish business centers in existing tribal colleges and other organizations like Inter-tribal regional authorities close to tribal populations. Share best practices for code development and organizational structures that separates business entities from tribal governments.
79. Utilize the Workforce Investment Act to train for management and business development.

## BUSINESS SERVICES

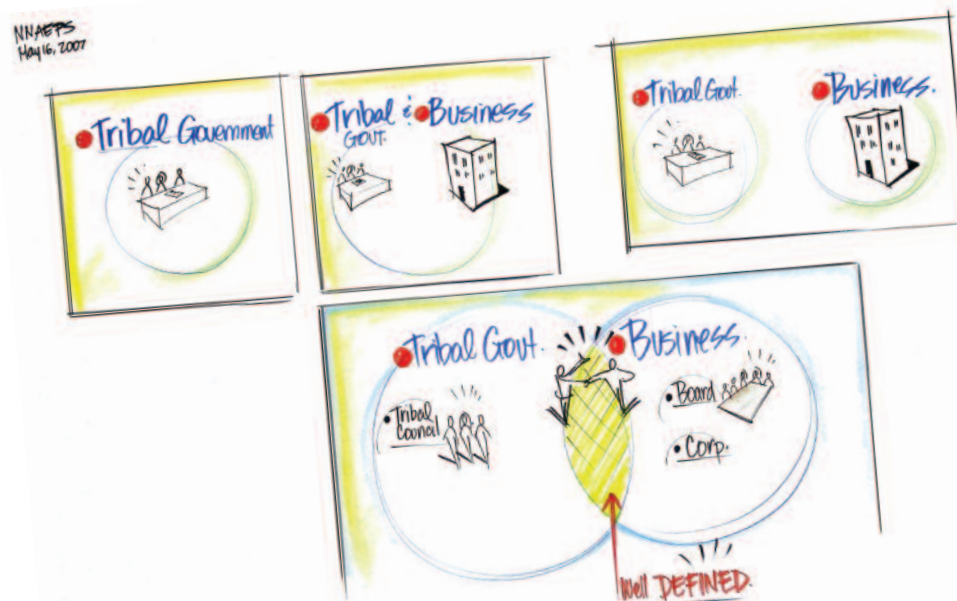
In many areas, businesses have difficulty accessing necessary business services. In rural areas, it means accessing banking, insurance and benefit programs that may not exist near reservations or their communities. Most participants expressed a clear need for a surety bonding program that would allow businesses to effectively compete without having to rely on an additional partner for the sole purpose of bonding. Recommendations include:

80. Establish a surety bonding program with guarantees similar to the current BIA loan guarantee program to allow tribal business owners to compete and access contracts with large capital requirements. This type of program would encourage bonding companies to underwrite Indian-owned businesses.
81. Expand and amend the Indian Tribal Development Consolidation Funding Act of 2001, P.L. 102-477.
82. Support or develop an inter-tribal business services firm similar to the Native American Bank that can service the tribal populations by bundling services.

## TRADE

Tribes should look to other tribes to develop partnerships, pool funds for development and the exchange of goods and services. In the current international marketplace, tribes should be looking abroad for marketing and materials, goods and services, the expansion of their markets, and establishment of trade relationships and partnerships, especially with indigenous partners. Recommendations include:

83. Tribes should develop formal partnerships and establish best practices for issues related to inter-tribal transactions, jurisdiction and investment codes.
84. Allow tribes to become qualified investors within the Securities and Exchange regulations so they can invest in other tribes.
85. Tribes should be included in international trade agreements, trade missions, and trade zones.
86. Deepen relationships with indigenous groups, nations, and multi-national entities through trade missions and outreach efforts.
87. Fund the Native program in the Department of Commerce to act as a liaison to the tribal and Indian businesses. Have Commerce provide on-going guidelines and expectations for tribes to navigate international trade and to develop plans for tribes and businesses to better receive and provide trade, goods and services to foreign firms wishing to partner with Indian tribes and businesses.





# Inclusion and Coordination

A considerable number of policy outcomes resulting from the Summit discussions concerned existing programs that simply were not being utilized, coordinated or enforced. Discussion was focused on policy recommendations that dealt with the importance of awareness and inclusion of Indian issues by agencies, Congress, academics and private sector entities. This applied to existing legislation and regulations that were passed or changed without considering the impact and burden it placed on tribes. Tribes are then put in the position of catching up to “level the playing field” thereby wasting valuable resources that could be going toward other needed programs.

Not all of the discussion was centered on external organizations. Tribes also noted the importance of sharing tribal information and partnering with one another on a number of issues to create efficiencies – spending less time reinventing the wheel and sharing the risk and expense.

## DATA

It is difficult to determine progress if there is not sufficient information available on the current state of Indian economies and businesses. It is difficult to move toward a solution without having a clear idea of what the problem is or how to measure progress. Currently, there is limited and outdated information about tribes and Indian-owned businesses making it hard to understand growth, real tribal and business needs, and the severity of various issues. Tribes need accurate and timely data. Specific recommendations that were made by Summit participants include:

88. Consult with agencies that already gather data to make the data gathering efforts valuable and relevant to tribes and businesses. Allow tribes access to data that already exists. Include appropriate categories in data gathering agencies and organizations that will provide insight and understanding of Native economic concerns.

## CONSULTATION

Even agencies with clear consultation policies may inconsistently consult with tribes. Some years, agencies may seek formal input from tribes’ while other years, the outreach efforts may change. In addition, sometimes federal legislators create policy without consulting or considering the effect or impact on tribes. The lack of consistent consultation keeps tribes reacting to change and new barriers instead of proactively planning and creating opportunities. In addition, there are times when tribes are consulted and their community-based experience is discounted and/or ignored. Solutions offered include:

89. Since there is considerable turnover of congressional representatives and senators, there is a need to consistently educate Congress on Indian issues and remind it to consider Indian tribes when creating or funding initiatives.

90. Each federal agency should be mandated to have inclusive and consistent consultation policies with tribes on regulatory changes. The consultation process should be consistently utilized and transparent – making agencies more responsible for using tribal input.
91. Create an effort to be included in hearings in the most influential congressional committees like Ways and Means. Develop a congressional education program for new and existing representatives.

### PROMOTION OF GOOD BUSINESS PRACTICES

Stories abound about Indian businesses that are not doing well. However, there are plenty that have good business models, relationships and practices. These stories should be promoted and made accessible. A solution would be to:

92. Utilize the Chamber of Commerce, National Indian Business Association, National Center for American Indian Economic Development and other organizations to promote businesses that are doing good things. Place best practices, business plans, and market information on an Indian business web site.

### BRANDING OF NATIVE PRODUCTS

There is a market for Native goods like salmon, buffalo and rice. Oftentimes, it is difficult for one entity to brand their foods like other national food organizations such as organic labeling, California fruits and others. Tribes should support branding of "Native Grown" food products similar to organic labeling standards or the Indian Arts and Crafts Act.

93. Create or utilize a national organization or inter-tribal effort to promote native foods.

### ENHANCEMENT OF TRIBAL SERVICE PROGRAMS

The federal, state and local governments have established programs that already provide services to tribes. These service delivery programs can be utilized to include tribal and individual business development at the local level. For example, energy companies servicing the reservation can utilize Native distributors, suppliers and contractors. Similar programs can be enhanced as part of the housing, energy, telecommunications and other infrastructure programs which would support local providers, distributors and building related services.

94. Place or increase Native participation as part of the farm services, housing, and other government service delivery programs. This would create local economic development, employment and cause government funds to be re-circulated within the local communities.
95. Use local Native foods as part of the commodity food service program. This would increase food quality and support local farmers and distributors.

### SHARED BEST PRACTICES

Discussion took place throughout the Summit related to the need to share best practices. This need was raised in the development of investment codes, transaction codes and business codes among other complex areas. The conversation went beyond collaborating on the development of best practices. It was clear from the various conversations and from discussion in the main session that there needed to be continued independent sources for gathering and sharing model codes, investment agreements and other transactions. This resource would also serve to help gain consensus on developing standard tribal practices and more targeted policy development.

96. Create a web site to track and communicate best practices and experiences at all levels of economic development. Bring up best practices and agreements as part of leadership conferences. Involve academic institutions in coordinating, disseminating and researching information.

### EXISTING INCENTIVES

These incentives have been mentioned in other areas, but they deserve a place in this segment because there needs to be more awareness and inclusion for existing programs that are not currently utilized to their capacity. Existing incentives that should be utilized more effectively include the use of existing business tax credits, energy tax credits, Buy Indian Act, 5% contracting incentive, Indian preference policies and others.

97. The Buy-Indian Act should be utilized by BIA and more agencies to meet contracting goals.
98. The contracting incentive should be adopted and funded by other agencies especially by the GSA.
99. Energy tax credits should be expanded to include tribal flexibility for renewable energy projects.
100. Business tax credits should be utilized for their intended purpose of creating on-reservation employment and development.



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