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# **Overcoming Challenges to Business and Economic Development in Indian Country**

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## Executive Summary

American Indian tribes and Alaska Native villages have embraced the goals, objectives, and programs associated with welfare reform, but the lack of jobs limits the success of tribal programs such as Temporary Assistance for Needy Families (TANF) and Welfare-to-Work (WtW). The lack of jobs is one of the biggest problems in Indian country. Recognizing the scope and importance of this problem, the federal government has promoted business and economic development (BD/ED) in Indian country. This report describes (1) examples of BD/ED activities and the federal programs and initiatives utilized by a convenience sample of eight tribes and two Alaska Native corporations; (2) the legal, historical, and cultural context of tribal BD/ED; and (3) the challenges tribes/Native corporations face in pursuing BD/ED, as well as the promising approaches they are developing to minimize or overcome them. The report was prepared for tribal, state, and federal officials and other stakeholders in welfare reform in Indian country. It is the last of four reports on the evaluation of tribal WtW programs as mandated by the Balanced Budget Act of 1997. The evaluation was conducted by Mathematica Policy Research, Inc., working with two subcontractors, the Urban Institute and Support Services International, Inc. (SSI), an Indian-owned consulting firm.

**Study Context.** Business and economic development and welfare reform in Indian country take place in a unique legal, historical, and cultural context. Historical events disrupted or destroyed many traditional tribal economies, and the legacy of these events continues to reverberate. Cultural values, norms, and expectations exert a strong influence on tribal BD/ED. The legal status of tribes and Alaska Native villages affects their economies, their relations with governments (federal, state, county, and local), and their interactions with private-sector businesses. Tribal legal status is reflected in treaties, legislation, and administrative and judicial decisions that, collectively, are often referred to as “Indian law.”

Congress has enacted laws designed to promote BD/ED in Indian country. In accordance with this legislation, many federal departments and agencies have BD/ED programs and initiatives which are aimed at supporting BD/ED consistent with Indian self-determination, tribal self-governance, and tribal sovereignty. Self-governance allows a tribe to take over the operation of programs and activities previously operated by federal agencies; to use federal funds more in accordance with their needs, circumstances, and goals; and to expand the number of jobs under tribal control. The expansion in the number of tribal employees can help decrease unemployment on the reservation, increase the pool of experienced and skilled managers and workers in the reservation workforce, and provide models for tribal members.

**Tribal BD/ED Activities.** The tribes/Native corporations in the study have developed a wide range of BD/ED activities, generally building their efforts on their natural resources and exploiting other favorable conditions, such as a location near tourism/recreation attractions (e.g., national parks and monuments, hunting, fishing, skiing). These tribes have developed businesses in the service sector (gaming, tourism, banking), manufacturing, natural resource management and development (mining, forest products), farming, and more.

Every tribe/Native corporation in the study benefited from one or more federal programs promoting BD/ED; however, no single program/initiative was especially beneficial to all tribes in the study. Which program was the most valuable depended on the unique needs,

circumstances, and characteristics of the tribe/Native corporation. The programs/initiatives that were most helpful to the tribes in the study were gaming, USDA rural development programs in combination with the Empowerment Zones and Enterprise Communities (EZ/EC) program, and the SBA 8(a) and HUBZone programs.

Some tribes identified the Indian Gaming Regulatory Act of 1988 (P.L. 100-497) as the federal initiative that has had the greatest impact on their BD/ED. Gaming has transformed some tribal economies and provided a stimulus to others. Despite some significant successes, however, most tribes do not participate in gaming operations, and some tribal gaming operations have been unsuccessful or have produced only modest profits. Still, as of 2001, 201 of 561 federally recognized tribes had gaming operations. That year, total revenues for these gaming operations were \$12.7 billion.

All but one of the tribes in the study operates gaming facilities (only the Navajo Nation does not; neither of the Alaska Native corporations operated gaming facilities). The scale of these gaming operations and their importance to the tribes has ranged from substantial (more than \$50 million a year) to modest (less than \$1 million a year). Gaming profits have transformed the economies of some tribes (Gila River, Cheyenne River Sioux); for other tribes (Citizen Potawatomi, Colville, Three Affiliated Tribes, Turtle Mountain Chippewa), gaming has produced significant profits that have boosted, but not transformed, their economies. Interestingly, because the tribe had already approached full employment and was operating many successful businesses, the Mississippi Choctaw Tribe's large and profitable gaming operations have produced less dramatic effects than otherwise would have occurred.

**Key Challenges and Promising Approaches.** The study participants identified four critical challenges to their BD/ED efforts:

- **Legal and administrative barriers.** Investors and businesses sometimes require assurance of access to federal or state courts for dispute resolution before doing business with a tribe or tribal business. Such assurances often require a limited waiver of tribal sovereignty. The lack of a commercial code, zoning regulations, and tax policies presents administrative barriers that can deter potential investors and business partners.
- **Focus on short-term rather than long-term results.** Study informants said that stakeholders and tribal members who are stockholders in tribal businesses may steer business operations in directions that are inconsistent with the long-term planning perspective and investment strategies required to make a venture successful. For example, especially in areas with high unemployment, tribal members might pressure tribal officials and managers of tribal enterprises to increase hiring regardless of the enterprise's profitability or sales. Similarly, members of native villages and stockholders in Alaska native regional corporations might pressure the corporation to pay dividends instead of investing profits.
- **Lack of investment capital.** Lack of capital, either in the form of debt or equity financing, makes it difficult to start new businesses or to expand existing ones.

- **Poor coordination of business-related activities within the tribe and with neighboring cities and counties.** Poor coordination of business-related activities between tribal programs and offices and between the tribe and nearby communities and counties can also interfere with BD/ED.

Tribes and Alaska Native corporations are developing ways to overcome or minimize these challenges and barriers to their BD/ED efforts. They are changing their legal and administrative structures and procedures; creating clear separations between businesses and elected officials, trying to attract investment capital; and improving coordination and cooperation with states, counties, and regional entities. The tribes in the study had developed or were refining their commercial codes, zoning policies and procedures, and tax codes with the aim of attracting investors and businesses to the reservations. They were also streamlining the process of creating or expanding businesses. Some tribes had negotiated a limited waiver of sovereign immunity with non-Indian business partners so that disputes can be mediated by a mutually agreeable third party or submitted to state or federal courts.

Most of the tribes in the study had developed, or were trying to develop, balanced ways to insulate businesses appropriately from possible pressures that might be exerted by tribal members or officials. A common approach is for the Tribal Council to appoint members of the board of directors of each tribal corporation. While each director answers ultimately to the Tribal Council, each director and corporate officer governs the corporation on a day-to-day basis without direction by the council.

Tribes participating in the study are developing strategies to eliminate or minimize barriers that block the flow of investment capital. The most promising involve persuading banks to use buildings and leases rather than trust land as collateral for loans; taking advantage of federal support and tax incentives to issue bonds; developing Community Development Financial Institutions (CDFIs); and collaborating with state, county, and regional entities in USDA rural development and other federal programs. While it is too early to determine their effects, several federal initiatives that aim to attract investment capital to Indian country have been implemented. These promising initiatives create: (1) the New Markets tax credit and the Indian reservation investment tax credit; and (2) the authority for tribes to issue tax-exempt bonds.

The situation of Alaska Native Regional Corporations such as Bristol Bay and Doyon is very different from that of Indian tribes. From their inception, Alaska Native regional corporations had the responsibility for protecting, maintaining, and growing millions of dollars in cash settlements paid them as part of the Alaska Native Claims Settlement Act (ANCSA). While many Indian tribes have received cash as part of a settlement that extinguished tribal land claims, few tribes received such large amounts (ANCSA conveyed \$962.5 million to the original 12 Native regional corporations created by the Act), and corporations were not created to manage tribal assets. Bristol Bay and Doyon have prudently invested the ANCSA payments, have been able to increase the value of their holdings, and have regularly paid shareholders dividends that approach or exceed the value of the amounts awarded by ANCSA. Nevertheless, many shareholders in the Native corporations continue to reside in small villages with few opportunities for salaried employment, often in substandard housing, and depend to some degree on subsistence fishing, hunting, and gathering as well as dividends paid by the Native corporations.

**Study Findings.** For each of the tribes in the study, BD/ED planning has undergone significant changes in recent years. Before passage of the Indian Self-Determination and Education Assistance Act (ISDEAA) in 1975, much of the planning was managed or performed by staff of the Bureau of Indian Affairs (BIA). Since then, in accordance with a desire for self-determination and governance and with support of federal agencies, the tribes in the study gradually took over responsibility for and control of BD/ED, as they did with most other programs and initiatives. Valuable support for BD/ED planning has been provided by the Economic Development Administration (EDA) in the Commerce Department and by the Administration for Native Americans (ANA) in the U.S. Department of Health and Human Services (DHHS).

Some tribes have encountered problems in their BD/ED planning and in monitoring and assessing the success of their planning efforts. In all the tribes participating in this study, responsibility for BD/ED is spread across different tribal offices and programs, and BD/ED planning activities are sometimes poorly coordinated. This diffusion of responsibility and poor coordination reflects, in part, the fragmentation in federal funding for tribal BD/ED across different federal agencies and programs. However, some tribes find that two federal initiatives (PL 102-477 and the EZ/EC programs) help facilitate coordinated management of funds from various federal sources.

Discussions with tribal officials and reviews of available reports of tribal enterprises indicate that few tribes have integrated formal monitoring and assessment with their planning and management of tribal BD/ED. Measuring the success of individual business efforts differs from assessing progress in achieving tribal BD/ED goals and objectives, but both types of analysis are needed for continuous improvement of tribal initiatives.

Tribal efforts to take advantage of federal programs and initiatives to promote BD/ED and to exploit their own resources and opportunities have had mixed results. Two tribes in the study (Gila River and Mississippi Choctaw) have experienced significant success, transforming their economies, creating jobs, and dramatically reducing unemployment and poverty on their reservations. Another (Citizen Potawatomi Nation), in a very different context and environment, has gradually developed a diverse and strong economy and has achieved one of the lowest unemployment rates (10 percent) in Indian country. Other tribes, often using innovative and aggressive BD/ED planning and operations, have developed new businesses and industries and created jobs. Nevertheless, the number of jobs created and the wealth produced continue to be modest compared to the large numbers of tribal members who lack employment and live in poverty.

While federal programs and initiatives have been key factors in some significant successes and have made valuable contributions to BD/ED throughout Indian country, many Indian tribes and Alaska Native villages continue to experience levels of unemployment that exceed 45 percent and levels of poverty that exceed 36 percent (NCAI 2003). Informants at seven of the eight tribes and at one of the Alaska Native corporations in the sample reported unemployment rates exceeding 45 percent, the highest being 80 percent (Cheyenne River Sioux).

The combination of tribal self-governance/self-determination and federal programs that promote tribal enterprise, provide funding, and improve access to capital has created a shift in favor of tribal BD/ED, a shift that is still somewhat new. Looking back over the past 10 years,

tribes in this study tried many approaches in a range of industry sectors. Success has been mixed and has taken time to materialize. Despite the difficult challenges they face, the tribes and Native corporations in this study are aware of the successes achieved, foresee continuing federal support for their efforts and, thus, find reason for optimism about their BD/ED efforts.

# 1. Introduction

Business and economic development (BD/ED) in “Indian country” is critical to the success of the welfare reform efforts of American Indian tribes and Alaska Native villages.<sup>1</sup> Without sufficient jobs, many American Indians and Alaska Natives residing in Indian country cannot move from welfare to work and escape the pernicious effects of poverty. Tribal cultures place a high value on employment as a demonstration of personal responsibility and contribution to family, clan, community, tribe, and country (Hillabrant et al. 2000), but on many reservations unemployment rates exceed 40 percent, few jobs are available, and there is often intense competition for whatever jobs do exist. Recognizing the scope and importance of this problem, the federal government has implemented efforts to promote BD/ED in Indian country.

This report was prepared for tribal, state, and federal officials and other stakeholders in welfare reform in Indian country. It is the last of four reports on the evaluation of tribal Welfare-to-Work (WtW) programs as mandated by the Balanced Budget Act of 1997.<sup>2</sup> Recognizing the unique circumstances of Indian tribes and Alaska Native villages, the tribal component of the WtW evaluation was conducted independently of the overall evaluation.<sup>3</sup> The tribal component had a broad focus that included the development of welfare reform in Indian country, the factors affecting the success of tribal WtW and Temporary Assistance for Needy Families (TANF) programs, and efforts to promote BD/ED, the focus of this paper.

The tribal component of the WtW evaluation relied on guidance provided by a ten-person study advisory committee that included elected tribal officials, subject matter experts, and persons experienced in doing research in Indian country. The advisory committee worked with the study contractors to define the study objectives, research methods and sites, and helped develop ways to minimize potential disruption to tribal programs associated with participation in the study.

Earlier site visits conducted for the tribal WtW evaluation revealed that the level of private-sector investment and the number of private-sector employers operating on or near reservations were too low to sustain the kind of job creation needed to move large numbers of tribal members from welfare to work. This last study focuses on the following issues:

- Utilization of specific federal and state programs designed to increase BD/ED, and policies that affect access and incentives for tribal participation in such programs
- Documentation of successful tribal BD/ED ventures—strategies that work and their impacts on job creation and tribal employment

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<sup>1</sup> In this report “Indian country” refers to American Indian reservations, rancherias, and pueblos; adjacent counties; and other areas where large numbers of American Indians or Alaska Natives reside (as in Alaska and Oklahoma). A different definition of Indian country is given under 18USC Chapter 53, Section 1151. For the sake of convenience, “tribal” in this report refers to both American Indian tribes and Alaska Native villages.

<sup>2</sup> The first report, prepared for tribal leaders and managers, described preliminary findings of tribal experiences in designing and implementing WtW programs (Hillabrant and Rhoades 2000). The second, prepared for a wide audience, assessed the implementation and operation of tribal WtW programs, describing social, cultural, economic, programmatic, and other factors affecting their operation (Hillabrant et al. 2001). The third report focused on the tribal TANF program, the Indian country welfare program with the most participants and the largest budget (Hillabrant et al. 2003).

<sup>3</sup> The national WtW evaluation is described in several reports, such as Perez-Johnson, Hershey, and Bellotti, 2000; and Nightingale, Pindus, and Trutko, 2002.

This report describes how some of these federal programs and initiatives have been used by a small sample of tribes and Alaska Native corporations. The report also describes the legal, historical, and cultural context of tribal BD/ED; federal programs and initiatives most useful to the study tribes/Native corporations; the challenges tribes/Native corporations face in pursuing BD/ED; and the promising approaches they are developing to minimize or overcome them.

## 1.1 Study Sites

This study focuses on a small but diverse set of American Indian tribes and for-profit regional Alaska Native corporations. The sample was selected with the goal of obtaining insight about ways tribes overcome barriers to BD/ED. Based on what we learned in the earlier phases of the tribal component of the National Welfare-to-Work Evaluation, we identified a group of tribes and Native corporations thought to have promising approaches to BD/ED. The study sample was selected from this group. We sought to achieve diversity in the sample so that the study results would be relevant to a broad range of tribal settings and circumstances. A profile of each of the tribes/Native corporations participating in the BD/ED phase of the study is presented in Appendix B.



Figure 1. Location of study participants.

The 10 tribes/Native corporations in the study are from diverse geographic areas (Figure 1). Two of the study participants are regional Alaska Native corporations (Bristol Bay Native Corporation and Doyon, Ltd.) created by the Alaska Native Claims Settlement Act (ANCSA), discussed in Chapter 2. One of the tribes is in the Pacific Northwest (Colville); three tribes are located in the northern plains (Cheyenne River Sioux, Three Affiliated Tribes, and Turtle Mountain Chippewa); one is in the southern plains (Citizen Potawatomi); two are in the southwest (Gila River and Navajo Nation); and one is in the southeast (Mississippi Choctaw).

**Table 1.1. Characteristics of Study Participants**

TRIBE/NATIVE CORP	LAND AREA (ACRES)	UNEMPLOYMENT (PERCENT)	ENROLLED MEMBERS	RESIDENTS	EMPLOYED FULL-TIME	STATE
Bristol Bay Native Corp. (BBNC)	3,000,000	70	7,000	6,000	n/a	AK
Cheyenne River Sioux	1,419,504	80	14,423	14,861	1,085	SD
Citizen Potawatomi	4,018	10	24,500	24,414	5,880	OK
Colville Confederated Tribes	1,400,000	48	8,700	5,000	3,420	WA
Doyon Limited	12,500,000	n/a	14,000	14,000	n/a	AK
Gila River	371,933	15	11,500	15,084	5,896	AZ
Mississippi Choctaw	37,483	28	8,900	5,190	2,590	MS
Navajo Nation	16,224,896	61	255,543	180,000	28,772	AZ, NM, UT
Three Affiliated Tribes	1,000,000	69	8,400	3,776	1,023	ND
Turtle Mountain Chippewa	140,107	58	25,000	8,331	5,247	ND

**Notes:**

“Land Area” refers to the size of the reservation for tribes that have a reservation, the area owned by the tribe for tribes that lack a reservation (Citizen Potawatomi), and the lands awarded to the regional Native corporation by ANCSA.

Unemployment data are from the most recent BIA Labor Market Report (1997). The unemployment rates reported for Doyon, Ltd. and BBNC are for the Alaska Native villages in their corresponding regions.

Enrollment data for the two Alaska Native corporations, Bristol Bay and Doyon, Ltd., are for shareholders.

The “Enrolled Members” column indicates the number of tribal members regardless of the location of their residence.

n/a indicates data unavailable.

There is diversity in the sample in terms of the tribe/Native corporation’s land area and, to a lesser extent, population size (Table 1.1). In terms of land area, the two Alaska Native corporations represent a special case. In accordance with ANCSA, shareholders in each corporation reside (or resided) in one of 12 regions of Alaska. These regions are large: the Bristol Bay region contains almost 3 million acres, and Doyon’s region is entitled to 12.5 million acres. The tribe with the largest land area in the sample, Navajo Nation, has more than 16 million acres—almost the size of West Virginia. On the

other hand, some of the tribes in the sample have small land areas. The Mississippi Choctaw Nation has 37,000 acres, the Citizen Potawatomi Nation, only 4,000.<sup>4</sup>

Most of the tribes in the study have large enrollments. Navajo Nation (which vies with the Cherokee Nation of Oklahoma for being the largest tribe) has more than 250,000 members. The Citizen Potawatomi and Turtle Mountain Chippewa tribes each have about 25,000. The three smallest tribes in the sample (Colville Confederated Tribes, Mississippi Choctaw, Three Affiliated Tribes) each have fewer than 9,000.<sup>5</sup> Again, the regional Alaska Native corporations represent a special case. Many of the shareholders in these corporations reside in Native villages with a population of 600 or fewer. Twenty-eight percent of Doyon shareholders reside in these Native villages, 26 percent in Fairbanks, 11 percent in Anchorage, 10 percent in other parts of Alaska, and 25 percent outside the state.

Unemployment also varies among the tribes/Native corporations in the study sample. Citizen Potawatomi (10 percent) and Gila River (15 percent) had the lowest rates. Cheyenne River Sioux (80 percent) and Doyon, Ltd. (80 percent) had the highest. Such levels of unemployment are unknown in most American communities today (the rate for the United States as a whole was about 4.7% in 1997 and about 5.6% in January 2004).<sup>6</sup>

While each tribe/Native corporation has unique circumstances and location, some exploit common economic sectors. Cheyenne River Sioux, Gila River, Navajo, and Three Affiliated Tribes have strong farming and/or ranching industries. All except Navajo had some gaming operations, and the tribes with the most successful gaming (Gila River and Mississippi Choctaw) also have developed the tourism-hospitality sectors. Tourism and recreation unrelated to gaming are important to some tribes, such as Cheyenne River Sioux, Citizen Potawatomi, Colville, and Navajo. Production of forest products and/or mining are important sectors for the Colville, Mississippi Choctaw, and Navajo tribes (Table 1.2).

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<sup>4</sup> American Indian tribes, Alaska Native villages, and Alaska regional Native corporations own lands. In Alaska, most Indian and Alaska Native land ownership was determined by ANCSA. Title to Indian lands in the lower 48 states has been established in treaties between tribes and the United States, Congressional legislation, and executive order, as discussed in Chapter 2.

<sup>5</sup> Not all tribal members reside on their reservation. They are free to reside on the reservation or elsewhere. With the high levels of unemployment in Indian country, a large "Indian Diaspora" left the reservations to secure employment. Since passage of the Indian Citizenship Act of 1924, all American Indians and Alaska Natives are citizens of the United States, eligible for passports and free to travel and reside abroad.

<sup>6</sup> Precise data on employment and unemployment on reservations are scarce for several reasons: (1) many families lack a telephone, which makes it difficult to contact them; (2) many residences lack a standard address such as a street name and number, which makes it difficult to reach them by mail or by personal interviews; (3) significant numbers of Indians and Alaska Natives have limited English skills, which complicates communication; (4) some tribal members lack social security numbers, which makes tracking them difficult; (5) many reservations cross county, state, or national boundaries, which creates jurisdictional problems; and (6) many Indians and Alaska Natives are involved in subsistence economies, deriving much of their food from hunting, fishing, and trapping, and deriving income from non-salaried entrepreneurial activities such as selling fish and game, crafts, and art objects. For these and other reasons, employment data for Indian reservations tend to be less valid than for other locations. Employment data are published by the BIA, working in concert with the tribes, the Bureau of the Census, and the Department of Labor. When this report was prepared, the most recent data available from the BIA were for the 1997 calendar year, the source for unemployment rate data presented in Table I.1.

**Table 1.2. Economic/Business Development Initiatives**

<b>TRIBE/NATIVE CORP.</b>	<b>LOCATIONS OF OPERATIONS</b>	<b>KEY INDUSTRIES</b>
Bristol Bay Native Corp.	AL, AK, CA, TX, WA, Russia	Oil and Gas production, Investment Management
Cheyenne River Sioux	SD	Gaming, Gas, Communications, Beef and Bison, Fisheries, Tourism, Retail
Citizen Potawatomi	OK	Bank, Gaming, Recreation, Retail
Colville Confederated Tribes	WA	Agriculture, Livestock, Gaming, Construction, Fisheries, Forest products, Tourism and Recreation
Doyon, Ltd.	AK	Energy Production Services, Real Estate, Investment Management
Gila River	AZ	Gaming, Tourism and Recreation, Industrial Parks, Agriculture, Retail
Mississippi Choctaw	MS, MI, AZ, FL, SC, IL, TX, Mexico	Manufacturing , Gaming, Construction, Recreation, Tourism, Retail, Forestry, Energy Exploration
Navajo Nation	AZ, NM, UT	Agriculture and Livestock, Construction, Forestry, Tribal Government, Industrial Parks, Manufacturing, Mining, Tourism and Recreation
Three Affiliated Tribes	ND	Agriculture and Livestock, Construction, Fisheries, Gaming, Manufacturing, Retail, Tourism and Recreation
Turtle Mountain Chippewa	ND	Agriculture and Livestock, Construction, Fisheries, Gaming, Industrial Parks, Manufacturing, Tourism and Recreation

Note: In addition to business activities taking place on their reservations/tribal lands, some tribes/Native corporations operate businesses in other locations.

## 1.2 Study Methods and Data Collection

We collected data between August 2001 and July 2002 through telephone interviews with all 10 tribes/Native corporations, followed by in-depth site visits to 3 of them (Colville, Mississippi Choctaw, and Navajo Nation). Telephone interviews generally included the director and staff of the tribal economic development program and officials of tribally owned or chartered enterprises. While all the study sites were selected, in part, because they had developed promising approaches to planning, implementing, or operating business or BD/ED initiatives, the three grantees selected for follow-up site visits described BD/ED approaches that are of special interest to other tribes/Native corporations, Congress, and other stakeholders in welfare reform in Indian country. Colville is applying advanced technology and developing new approaches to exploit its forestry resources. Mississippi Choctaw attracted manufacturing companies to their reservation and developed a variety of successful BD/ED initiatives before implementing gaming facilities. Navajo Nation, with its large land area, is pursuing BD/ED while devolving some authority from the central tribal government to local political entities, the Chapter Houses. Navajo Nation is also working with private companies in mining and power generation, and with two other tribes in the Four Corners Enterprise Community.

During the site visits, we interviewed staff of tribal BD/ED programs, tribal officials (chairman, governor, chief, financial officer, etc.), staff of welfare programs (such as TANF, if operated by the tribe, WtW, workforce development, vocational education, and vocational rehabilitation), members of the tribal planning department, and managers and staff of tribal businesses. We obtained additional

information about the study participants from their Web sites, reports provided by tribal officials, federal agencies, and reference materials.

The next chapter describes the legal, historical, and cultural context of tribal BD/ED and federal legislation supporting it. Chapter 3 discusses federal BD/ED initiatives and programs, and identifies those that were most useful to the tribes and Alaska Native corporations participating in the study. Chapter 4 discusses challenges to tribal BD/ED as well as solutions the tribes/Native corporations in the study are using.

## 2. Legal, Historical, and Cultural Context of Tribal Economic and Business Development

BD/ED and welfare reform in Indian country are taking place in a unique legal, historical, and cultural context. The legal status of tribes creates opportunities and challenges for their BD/ED. Historical events disrupted or destroyed many traditional tribal economies, and the legacy of these events continues to reverberate through tribal economies. Cultural values, norms, and expectations exert a strong influence on tribal BD/ED. The federal government has promoted BD/ED in Indian country through specific programs and legislation as well as through support of Indian self-determination and self-governance. This chapter discusses key principles of Indian law, special legal provisions for Alaska Native villages and tribes, historical and cultural circumstances that shape tribal BD/ED activities, and current federal support of tribal BD/ED.

### 2.1 Tribal Legal Status and BD/ED in Indian Country

The legal status of tribes and Alaska Native villages affects their economies, relations with governments (federal, state, county, and local), and relations with private-sector businesses. This legal status is reflected in treaties, legislation, and administrative and judicial decisions. Collectively, these treaties, statutes, and administrative and judicial decisions are often referred to as “Indian law.” Seven principles of Indian law are critical to BD/ED in Indian country, and generally apply to Alaska Native villages as well: (1) the primacy of the federal government in Indian affairs, (2) the plenary power of Congress, (3) trust relationship, (4) tribal sovereignty, (5) tribal reserved rights, (6) canons of construction of Indian law, and (7) Indian self-determination and self-governance (American Indian Research Institute 1998). Each of these sometimes contradictory principles is discussed below.

**Federal Primacy in Indian Affairs.** One of the first principles of Indian law is the primacy of the federal government in Indian affairs. After the establishment of the United States, relations with Indian tribes became the prerogative of the federal government.<sup>1</sup> Article I, section 8, clause 3 of the Constitution, known as the “Indian commerce clause,” says: “Congress shall have Power . . . to regulate Commerce with foreign nations, and among the several States, and with the Indian tribes.” The Indian Trade and Intercourse Act of 1790, known as the “Nonintercourse Act,” brought Indian affairs under exclusive federal control by:

- Regulating commercial trade with Indians
- Establishing penalties for violations of the law by traders
- Specifying provisions for crimes committed against Indians in Indian country
- Prohibiting the sale of Indian land without federal approval

Federal primacy in Indian affairs has important implications for BD/ED in Indian country:

- Every state regulates much of its internal commerce, but states generally cannot levy sales or other taxes on commerce occurring on Indian reservations. Avoidance of state taxes can serve as an incentive for businesses to locate on a reservation; however, to the degree that tribes levy their own taxes on businesses, the tax-avoidance incentive is mitigated.

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<sup>1</sup> Prior to the establishment of the United States, Indian tribes negotiated treaties with colonial representatives of the British, Dutch, and Spanish Crowns.

- American Indians residing on reservations are generally not subject to state income taxes. This can serve as an incentive for employed tribal members to maintain a residence on the reservation and can increase their net income.
- Disputes between tribes and states, between tribal and state chartered corporations, and between state residents and tribal businesses generally cannot be adjudicated by state courts; such disputes fall under the purview of tribal or federal courts. Lack of access to state courts deters some businesses from investing in Indian country.
- Federal primacy in Indian affairs contributes to the isolation of tribal governments from some business activities. Non-Indian businesses tend to be less familiar with the operations of tribal governments than they are with those of state, county, and local governments. Less equipped to advance and defend their interests before governmental bodies in tribal settings, some businesses refrain from activity in Indian country.

**Plenary Power of Congress.** Pursuant to its plenary powers, Congress may abrogate or modify any tribal right or privilege established by treaty, statute, or other document. Subject only to the Constitution, Congress can advance, limit, or control much of Indian commerce and related affairs. Indian self-determination, self-governance, and commerce are ultimately subject to the control of Congress.<sup>2</sup> For example, in passing the Indian Gaming Regulatory Act (Public Law 100-497), Congress required tribes to negotiate compacts with states setting parameters for gaming on tribal lands.<sup>3</sup> In exercising its plenary powers, Congress has granted federal recognition to some tribes and has terminated the recognition of others.

**Trust Relationship.** Tribes are regarded as “domestic dependent nations.” The relationship of these nations to the United States “resembles that of a ward to his guardian.”<sup>4</sup> Under this principle, the United States, often through the BIA in the Department of the Interior, serves as a trustee for each tribe. Sometimes there is tension or conflict between the roles and responsibilities of the United States as a trustee and other principles of Indian law, such as tribal sovereignty, reserved rights, and self-determination.

The trust relationship affects BD/ED in Indian country in several ways:

- Tribes and tribal members cannot mortgage reservation land, because, while the tribe owns the land, it is also held in trust by the United States for the current and future tribal members. Without such mortgages, it is difficult to obtain loans needed to finance home construction and business development.

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<sup>2</sup> See United States Code; Title 25, Chapter 21, Section 1901. Supreme Court decisions have supported Congressional control over Indian affairs—see *Santa Clara Pueblo v. Martinez*; 436 U.S. 49 (1978), and *Lone Wolf v. Hitchcock*; 187 U.S. 553 (1903).

<sup>3</sup> The Act establishes three classes of games with a different regulatory scheme for each. Class I gaming is defined as traditional Indian gaming and social gaming for minimal prizes. Regulatory authority over Class I gaming is vested exclusively in tribal governments. Tribes retain their authority to conduct, license, and regulate Class II gaming (bingo and similar games of chance) so long as the state in which the tribe is located permits such gaming for any purpose. A tribe can operate Class III gaming (casino-type games) only if the particular form of Class III gaming is permitted in the state in which the tribe is located.

<sup>4</sup> This principle has been developed primarily in decisions of the Supreme Court, such as *Cherokee Nation v. Georgia* 30 US (5 Pet.) 1,8 L. Ed25 (1831) and *Worcester v. Georgia*, 6 Pet. 515 (1832).

- Approval from the BIA, as trustee, is generally required for major BD/ED initiatives. A tribe's management of its assets is generally subject to BIA review, and the BIA can repudiate tribal decisions, if it deems that they place tribal assets at risk. Tribal informants said that the BIA is understaffed, and its approval process sometimes takes so long that potentially lucrative business opportunities are lost.
- Some informants said that the federal government has not always lived up to its trust responsibilities. They claim it has failed to account for tribal trust assets and income and failed to represent tribal interests. Tribal officials said that such failures contribute to the lack of investment capital available to tribes. Individual Indians have brought a class action suit against the secretaries of Interior and Treasury, claiming that their agencies have failed to account for funds held in trust by the United States (*Cobell v. Norton et al.*). In this case, which has been in litigation since 1966, the plaintiffs claim that more than \$1 billion of Indian trust funds has been misappropriated by the Interior Department.<sup>5</sup> In 1993, one of the tribes in the study (Navajo Nation) sued the Secretary of Interior claiming that he colluded with the Peabody Coal Company to deprive the tribe of fair compensation for operation of a surface mine on the reservation (see *United States v. Navajo Nation*, No. 01-1375, March 4, 2003 [[laws.findlaw.com/us/000/01-1375.html](http://laws.findlaw.com/us/000/01-1375.html)]).

One of the tribes participating in the study, Citizen Potawatomi, has taken over management of its trust funds, which include millions of dollars generated by successful land claims against the United States.<sup>6</sup> Tribal officials reported a 300 percent increase in its trust account revenues after taking over management of the tribe's trust funds. This increase in revenues was generated by investing the funds in money market and other low-risk instruments that pay higher interest than was earned when the funds were managed by the BIA.

**Tribal Sovereignty.** Tribal governments are sovereign within tribal (reservation) territory and thus are not subject to state or any other laws other than federal laws without the consent of Congress. The exercise of tribal sovereignty can have mixed effects on BD/ED in Indian country:

- Generally individuals or businesses are precluded from suing a tribe or a tribal business in state courts and, sometimes, in federal courts. Sovereign immunity can protect the tribe and place its assets beyond the reach of any potential litigant. On the other hand, without the option of resolving disputes in federal or state courts in accordance with codified civil procedures and rules, many individuals, businesses, and organizations regard investment in Indian country as too risky.
- Tribes can charter corporations and create their own commercial codes. These powers permit tribes to regulate businesses in accordance with their traditions, values, and goals. On the other hand, if a tribe lacks a commercial code (many do), potential investors may be deterred, if they view such a code as a prerequisite for making an investment.

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<sup>5</sup> The judge in the case, Royce Lambreth, has found Secretaries of the Interior and Assistant Secretaries of Indian Affairs to be in contempt for failing to comply with his orders and rulings. See, for example, [[www.usdoj.gov/civil/cases/cobell](http://www.usdoj.gov/civil/cases/cobell)].

<sup>6</sup> In accordance with the Indian Self-Determination and Education Assistance Act of 1975, as amended (discussed in the next section), tribes can take over the operation of many programs formerly operated by the BIA. Citizen Potawatomi was one of the first tribes to take over management of its trust funds.

- Tribes can levy taxes on individuals and businesses residing or operating on the reservation. Revenues generated by taxes on businesses can be used to fund critical tribal programs. On the other hand, the burden of tribal taxation can serve as a strong disincentive to prospective businesses and investors.

While tribal sovereignty and federal primacy tend to insulate tribes from interference by states, Congress has limited tribal sovereignty in important areas such as gaming, as noted above, law enforcement, and issuance of tax-free bonds. In passing Public Law 83-280 in 1953, Congress gave jurisdiction of criminal offenses and civil actions involving Indians and Alaska Natives to certain states (AK, CA, MN, NE, OR, and WI).

**Tribal Reserved Rights.** The rights of the tribes, as prior and continuing sovereigns, to land, self-government, and other domains exist inherently rather than as grants from the United States. This principle, together with the canons of construction (discussed below), tends to help tribes exercise their sovereignty with respect to BD/ED and other areas despite resistance from governments (federal, state, county, regional, or local), businesses, and individuals.

**Canons of Construction of Indian Law.** In a number of decisions over time, federal courts have come to interpret written documents (such as treaties, statutes, and executive orders) as being developed to benefit tribes—to be construed broadly in determining the existence of Indian rights, but narrowly when considering the abrogation or elimination of those rights (Blurton 1999). For the most part, the canons of construction have benefited tribes in disputes with the federal and state governments pertaining to the exercise of tribal sovereignty.

**Indian Self-Determination and Self-Governance.** Since the 1970s, federal policy has supported Indian self-determination and self-governance, promoting a “government-to-government” relationship between the United States and tribes. Federal support of Indian self-determination and self-governance includes the enactment of statutes by Congress and the implementation of programs, regulations, and initiatives by most federal departments and agencies, all promoting Indian self-determination (U.S. Department of Health and Human Services 2003).<sup>7</sup>

For example, since 1975, tribes have the option of taking over operation of all or a portion of their education and, subsequently, their health programs. Under The Indian Self-Determination and Educational Assistance Act (ISDEAA), as amended, tribes have the option of taking over the operation of any program designed “for the benefit of Indians because of their status as Indians.” In addition, tribes have been able to operate education, training, and employment programs, such as Job Training Partnership Act (JTPA) and Native Employment Works (NEW), funded by the Department of Labor (DOL) and DHHS, respectively. The Balanced Budget Act of 1997 gave the tribes the opportunity to take responsibility for the relatively small WtW program, and PRWORA authorized tribes to operate the relatively large TANF program.

With respect to BD/ED, Indian self-determination has meant that tribes have opportunities to control the assets and resources that affect their members and lands. As tribes have taken over the

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<sup>7</sup> Examples of laws passed by Congress include the Indian Self-Determination and Education Assistance Act of 1975, ISDEAA (PL 93-638), subsequently amended and expanded; the Indian Employment, Training, and Related Services Demonstration Act of 1992 (PL 102-477); the Department of Agriculture Reorganization Act of 1994 (7 U.S.C.6941 et seq.); the Native American Housing Assistance and Self Determination Act of 1996, NAHASDA, (PL 104-330); and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PL 104-193).

operation of federally funded programs, they have created jobs and have tended to fill these jobs with tribal members who reside on or near the reservation.<sup>8</sup> Many tribes have replaced federal agencies (such as the Bureau of Indian Affairs [BIA] and Indian Health Service [IHS]) as the largest employer on the reservation. The increased payroll and associated expenditures by employees residing on or near the reservation stimulates the reservation economy, and the employees gain experience that increases their capabilities and value to the tribal government and other future employers.

While taking over operation of federal programs has provided a significant economic stimulus for many tribes, some have experienced problems with obtaining full funding for such programs. When a tribe takes over the operation of a program previously operated by a federal agency, the contract or compact may include funds for both direct program operation and for contract support costs (CSCs).<sup>9</sup> CSCs are costs that are not included in the amount allocated for operation of the program. CSCs may be paid for: 1) start-up and pre-award costs for one-time expenditures needed to assume operation of the program, 2) indirect costs that are the pooled administrative costs of tribes, and 3) other unpaid costs directly associated with the program.<sup>10</sup> Tribes have argued that ISDEAA requires the federal government to pay 100 percent of CSCs, but full funding of tribal CSCs has not been appropriated by Congress. This disparity has resulted in Congressional oversight hearings and litigation between several tribal governments and the IHS and BIA.<sup>11</sup>

While CSCs awarded to tribes contribute to program operation and to the tribal economy, informants at several of the tribes in the study said that failure to include all the requested CSCs in federal contracts and compacts with tribes makes it difficult for a tribe to operate the program at the same level the government did. Informants reported that shortfalls resulting from less than full CSC funding sometimes have forced cuts in the level of services for health care, education, and other programs. This problem has been studied and has given rise to several lawsuits against the BIA and DHHS (see, for example, General Accounting Office 1999; Ramah Navajo Chapter v. Lujan 112 F.3d 1455, 1461 [10th Cir. 199]; and Shoshone-Bannock Tribes v. Secretary, 279 F.3d 660, 663 n.5 [9th Cir. 2002]).

All the tribes in the study have taken over the operation of programs formerly operated by the federal government. Each of the tribes operates its police force and court system, social services, and natural resource programs formerly operated by the BIA. Five of the eight tribes in the study operate hospitals or health clinics formerly operated by the IHS. Several of the tribes in the study operate all or part of their educational systems, elementary and secondary schools, or colleges. All the tribes in the study operate Head Start and adult and vocational education programs. Three of the tribes in the study operate a TANF program.

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<sup>8</sup> When a tribe takes over the operation of a program previously operated by a federal agency, even if the tribe retains the former staff, the jobs are new to the tribe and, thus, were “created.”

<sup>9</sup> Direct costs are those costs that can be identified specifically with the federally-funded program, or that can be directly assigned to program activities relatively easily with a high degree of accuracy. Typical direct costs are the compensation of employees for work performed under the federally funded program, and the costs of materials consumed or expended in the performance of the work.

<sup>10</sup> Indirect costs are costs incurred for common or joint objectives and, therefore, cannot be identified readily and specifically with a particular project or program. Indirect cost items contribute to the ability of the tribe to support one or more programs. Such costs are normally classified under the following categories: depreciation and use allowances, general administration and general expenses, and operation and maintenance expenses. Indirect costs stem from providing program space and administering the activities, rather than from the actual performance of the program activities.

<sup>11</sup> Indian Health Service, 2001 (<http://info.ihs.gov/Resources/Resource3.pdf>.)

## **2.2 Special Circumstances Pertaining to Alaska Native Villages and Tribes in Alaska**

Passage of the Alaska Native Claims Settlement Act (ANCSA) in 1971 radically changed the way the United States deals with Indian tribes and Native villages in Alaska and dramatically affected the path of BD/ED for Alaska Natives. What is now Alaska is the aboriginal home of several Indian tribes and many Alaska Native groups, including Athabascan Indians, Aleuts, and Inuit (called Eskimo by some).<sup>12</sup> Before 1971, the United States dealt with Indians and Native groups in Alaska in a fashion similar to that used with Indian tribes in the lower 48 states: through treaties, legislation, and executive orders. ANCSA extinguished native land claims to almost all of Alaska in exchange for about one-ninth of the state's land plus \$962.5 million in compensation. By conveying Native land title to 12 regional and 200 local village corporations chartered under Alaska state law, ANCSA changed the relationship between Natives and the land from one of co-ownership of shared lands to one of corporate shareholding (that is, land ownership was based on a corporate model). After ANCSA, Native villages serve members and Native village corporations, and Native regional corporations serve shareholders.<sup>13</sup>

In enacting ANCSA, Congress sought to end, in Alaska, the supervision over Indian affairs that had previously marked federal Indian policy. The settlement of the land claims was to be accomplished "without litigation . . . without creating a reservation system or lengthy wardship or trusteeship." To this end, ANCSA revoked "the various reserves set aside . . . for Native use" by legislative or executive action, and completely extinguished all aboriginal claims to Alaska land. In return, Congress authorized the transfer of \$962.5 million in federal funds and 44 million acres of Alaska land to 12 original state-chartered private business corporations that were to be formed pursuant to the statute. The shareholders of these corporations were limited to Alaska Natives. The ANCSA corporations received title to the transferred land, and no federal restrictions applied to subsequent land transfers by them (see *Alaska, Petitioner v. Native Village of Venetie Tribal Government et al.* Supreme Court Decision 96-1577). The 12 Native corporations and Native village corporations operate very differently from most Native villages and Indian tribes. They have stockholders, substantial liquid assets, and are governed by a board of directors.

## **2.3 Impact of Historical Events on Tribal BD/ED**

Current BD/ED activity in Indian country cannot be fully understood without reference to historical events that continue to reverberate in reservation economies. European colonization of the Americas, wars, and subsequent policies of the United States resulted in loss of tribal land and population, disruption of tribal economies, and increased tribal dependency on the federal government. The legacy for BD/ED includes economic costs associated with the loss of land and natural resources, complicated patterns of land ownership, and a distrust of outsiders with respect to tribal commerce.

Conflict with the American colonies and subsequently with the United States had many negative consequences for Indian tribes and Native villages. Population loss due to war, starvation, and disease

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<sup>12</sup> The Inuit include the Inupiat and Yupik peoples.

<sup>13</sup> There are 12 regions in Alaska, each with a Native corporation created by ANCSA. A thirteenth regional Native corporation was created for Alaska Natives who had left the state and were not shareholders in one of the 12 regional corporations.

caused more than 100 tribes to cease to exist. Many surviving tribes (there are currently over 550 federally recognized tribes, including Alaska Native villages) were forced to leave their homelands and were restricted to reservations. These losses made many tribes dependent on the federal government for food, shelter, health services, education, and welfare (Sturtevant, 1907).

Federal “assimilation” policy, which attempted to terminate reservations and induce Indians to abandon their languages, religions, and cultures and adopt the ways of European Americans, dealt another blow to tribes in the last part of the 19th century. The effects of the General Allotment Act of 1887, also known as the Dawes Act, are still apparent on reservations today. The Dawes Act authorized the BIA to allot parcels of reservation land to individual Indians. Each Indian’s allotment was to remain in trust (exempt from state laws and taxation) for 25 years. Portions of the reservation that were not allotted were declared “surplus land” and opened to non-Indians for homesteading. Tribes were compensated for whatever land was sold. The Dawes Act had serious effects:

- Land owned by tribes fell from 138 million acres in 1887 to 48 million acres in 1934. The economic cost associated with the loss of these lands and associated mineral and riparian rights is staggering. If tribes retained these lands today, their economies might be strikingly different.
- Many reservations now have a “checkerboard” pattern of land ownership—land parcels are owned by a tribe, individual Indians, and non-Indians, which makes it difficult to govern and manage BD/ED activities on these reservations.<sup>14</sup>
- Tribal landholdings in the Indian Territory were broken up, and in 1889, former Indian lands were opened to settlement, starting with the “Oklahoma land rush.” The Citizen Potawatomi Nation lost its reservation as a result of the Dawes Act.

In planning and executing current development efforts that relate to allotted land, a tribe faces problems similar to those of other governments in trying to promote development and the general welfare of its citizens while respecting the rights and desires of individual property owners. Sometimes the latter is inconsistent with the former. For example, the Gila River reservation includes 372,000 acres of which 100,000 are allotted lands in 10-acre parcels, some with 40 persons (generally heirs of the original allottee) having an interest. The tribe plans to redevelop an abandoned airfield built by the Army on the reservation in the 1940s. The land next to the airport is mostly allotted land, and the tribe is having difficulty securing agreement of the many owners for the planned development. The tribe is considering a self-governance compact to take over operation of the realty office from the BIA and, perhaps, buying out small owners so that the tribe can develop the land.

The history of conflict and maltreatment seems to influence contemporary tribal BD/ED. Informants at some of the participating tribes said that a general mistrust of non-Indian or off-reservation businesses and people results in a focus on internal development. Notwithstanding a lack of investment capital, some tribes in the study tended to plan for and to develop “home-grown”

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<sup>14</sup> The Dawes Act was not enforced on every reservation, so some reservations do not have checkerboard land ownership. Six of the eight tribes in the study have a checkerboard reservation (Cheyenne River Sioux, Colville, Gila River Indian Community, Mississippi Choctaw, Three Affiliated Tribes, Turtle Mountain Chippewa), and one reservation is not checkerboarded (Navajo); one of the tribes (Citizen Potawatomi), like most tribes in Oklahoma, has trust land but not a reservation. Before the Dawes Act, all the tribes in the study occupied lands that were ceded to or taken by the United States through treaties, executive orders, administrative decisions, or force of arms.

initiatives rather than seek off-reservation businesses to locate facilities or to co-invest on the reservation. At these tribes, most development planning focused on ideas developed by tribal programs or individuals. Initiatives involving partnerships with businesses outside the reservation economy of such tribes were rare. While some of these tribes coordinate development planning in a regional context, working with adjacent counties or regional economic development organizations, informants expressed little enthusiasm for such coordination.

There are, however, important exceptions to the inward focus on tribal BD/ED. Mississippi Choctaw started their modern economic development with the construction of an industrial park and a nationwide recruitment campaign to attract businesses to locate plants on the reservation. The Choctaw have continued this expansive vision by locating tribally owned businesses off their reservation and by entering into partnerships with non-Indian businesses. Other tribes participating in the study (Cheyenne River Sioux, Gila River, Turtle Mountain Chippewa), in part influenced by the success of the Choctaw, have opened business or industrial parks on their reservations and seek non-Indian tenants. The Citizen Potawatomi tribe purchased and operates a bank located in nearby Shawnee, Oklahoma. The First National Bank of Shawnee operates like any local bank, with tribal members representing a minority of the bank's customers. Navajo Nation has granted a lease to Peabody Coal Company to mine coal on its reservation and works with a consortium of power companies in operating the coal-fired Four Corners power generation facility that provides electricity to Arizona, California, and New Mexico.<sup>15</sup>

The two Native corporations in the study were much more open to working with and investing in businesses and activities outside the villages of their shareholders. Alaska Native communities share with American Indian communities a history of abuse and exploitation during the colonial period and after; many Alaska Native groups share a distrust of non-Native businesses. Nevertheless, the Alaska Native corporations have invested broadly in the economy of the United States. Study informants suggested several reasons for this openness to investment outside their Native communities:

- Their organization as corporations with individual members of tribes or Native villages owning shares in the corporation
- The relatively large amount of liquid assets they received when they were created (pursuant to the enactment of ANCSA)
- Their mission of protecting and expanding their assets
- Utilization of professional financial advisors to guide their investments

While profitable investment opportunities in the remote Native villages are scarce, the Native corporations do seek to promote BD/ED in their constituent Native villages. For example, Doyon created Doyon Tourism, Inc. to promote tourism in its region. Doyon's land and natural resources department manages its ANCSA lands, generates income and job opportunities for shareholders, and promotes traditional shareholder uses of Doyon lands. The Bristol Bay Native Corporation maintains a directory of businesses owned by its shareholders and works with the Bristol Bay Health Corporation and Bristol Bay Native Association to promote job opportunities in the region.

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<sup>15</sup> The tribe, dissatisfied with the terms of the lease with Peabody and with "ex parte" communications between Interior officials and Peabody, has sued the Interior Department for breach of its trust responsibility.

## 2.4 Cultural Factors Affecting Tribal BD/ED

There was diversity within and among tribes/Native corporations in the study with respect to the value and limits of BD/ED. At each site, there were individuals and groups with strongly held positions about development that can be classified as (1) traditionalist, (2) conservationist, and (3) pro-development. Each of these positions is described below.

The “traditionalist” position holds that traditional culture and values are fragile and have long been undermined by forces inside and outside the tribe. Consequently, most decisions should reflect preservation of traditional culture and values. Any BD/ED initiative that is judged to be inconsistent with traditional values should be rejected—cultural preservation trumps potential benefits of BD/ED. One informant said that, despite the promised economic benefits of job creation and profits, his tribe would not permit a “Disney World” to be constructed on the reservation, because such an enterprise would be incompatible with the tribe’s culture and ways. The desire to protect tribal culture and values was often accompanied by a mistrust of non-Indian developers and businesses. Informants cited a long history of illegal expropriation of Indian lands and natural resources by individuals, states, and the federal government as the basis for this mistrust.

An example of how traditionalist cultural values can affect BD/ED was described by officials at Navajo Nation. Most of the land on their reservation suitable for commercial development has been assigned grazing permits held by individual tribal members. Sheep herding and animal husbandry are traditional Navajo occupations and are central to Navajo culture. Consequently, elected Navajo politicians are reluctant to force, through the exercise of eminent domain, a grazing permit holder to relinquish his or her permit for the sake of development—especially if the permit holder is a tribal elder. Informants said that many development projects have been scuttled because one or more grazing permit holders refused to approve the project. Like other communities, Indian and non-Indian, Navajo Nation has rejected developing Class III gaming on the reservation primarily because of cultural and other values.

The “conservationist” position is similar to the traditionalist one, but with environmental rather than cultural preservation the core value. However, the two positions are not incompatible—at each study site informants said that many tribal members are both traditionalist and conservationist, and reject any BD/ED initiative they judge would harm either the environment or tribal culture or values.

The “pro-development” position holds that BD/ED on the reservation can significantly contribute to the solution or amelioration of many problems, such as unemployment, poverty, poor academic achievement, and substance abuse. Such views lead people with a pro-development position to be the strongest advocates of BD/ED on the reservation. At every study site, there were individuals and groups that favored development and viewed most potential development as compatible with cultural preservation. Some tribal officials viewed concerns about the cultural compatibility of businesses and mistrust of non-Indians as unnecessary barriers to most BD/ED. One informant said, “Other tribes haven’t figured out that you don’t stop being an Indian just because you have a job.”

Those taking the pro-development position tended to be more amenable to working with non-Indian persons and businesses. Tribal officials at Choctaw said the tribe has reached out aggressively to non-Indian businesses. The tribe has established businesses outside the reservation (in other states and Mexico) and has recruited Fortune 500 corporations to establish operations on its reservation.

Each of the tribes/Native corporations in the study pursued BD/ED to generate wealth for the tribe or Native association and to generate jobs, including self-employment, for tribal members. However, tribes varied in the relative emphasis they placed on these two goals. While most tribes emphasized job creation over wealth creation or profits, the two Alaska Native corporations value asset protection and profits over job creation. The Native corporations have fiduciary responsibility to act prudently to protect and expand corporate assets originally created by ANCSA.

Given the high rates of unemployment at most of the tribes, there is strong political/social pressure for job creation. Some tribal officials described a paradox in managing a company with the aim of employing people as opposed to making profits and creating growth. They observed that managing a company to create and maintain jobs has been the downfall of many tribal businesses. Over time, such businesses tend to have difficulty in reducing costs by discharging employees, so they become unprofitable, ultimately going bankrupt or becoming a drain on tribal resources. In contrast, businesses that are managed for profit and/or expansion have a greater chance of becoming profitable, and profitability is associated with longevity.

## **2.5 Legislation Supporting BD/ED in Indian Country**

Congress has enacted laws designed to promote BD/ED in Indian country, and there are about 100 federal programs to assist tribes or tribal members with BD/ED activities (General Accounting Office 2001). Federal programs that support preferential employment for disadvantaged populations, BD/ED in rural areas, and BD/ED in poor communities with high unemployment are potential sources of support for initiatives in Indian country (Appendix A lists selected legislation and study sites affected by each initiative). The descriptions of tribal BD/ED activities in the following chapter will illustrate how tribes have benefited from these federal initiatives.

### **3. Tribal BD/ED Planning and Activities**

Tribes plan and implement BD/ED initiatives using a variety of offices and programs that often reflect federal funding sources and policy. This chapter describes tribal BD/ED planning and the kinds of BD/ED activities that tribes and Native corporations conduct. Examples of tribal BD/ED ventures demonstrate how tribes operationalize their plans and make use of federal programs and initiatives that promote BD/ED. Assessment of the success of tribal BD/ED efforts has been limited to date, but tribal enterprises do produce some financial information that can be incorporated in future planning.

#### **3.1 BD/ED Planning**

In all the tribes participating in this study, responsibility for BD/ED is spread across different tribal offices and programs, and BD/ED planning activities are often poorly coordinated. This diffusion and associated lack of coordination reflects in part the fragmentation in federal funding sources for tribal BD/ED. However, two federal initiatives (PL 102-477 and the Empowerment Zone/Enterprise Community [EZ/EC] program) may help or encourage tribes to coordinate and manage federal BD/ED funding better.

Some tribes, especially larger ones, may have several offices, divisions, or departments responsible for BD/ED planning and other activities. For example, most of the tribes in the study have separate offices or programs for economic development, small business development, workforce development, and/or TANF. In addition, responsibility for BD/ED is shared by the legislative branch (for example, a Tribal Council) and the executive branch (for example, a tribal chairman). This organizational structure is influenced by the sources of federal assistance. The tribal department of economic development tends to receive funds from the Economic Development Administration in the Commerce Department, the BIA, and USDA rural development programs. The tribal small business development program tends to receive funds from the SBA and from the Minority Business Development Administration in the Commerce Department. The tribal workforce development program tends to receive funds from DOL and DHHS (Administration for Native Americans and Administration for Children and Families). Tribal officials said that receiving funds from different federal departments and from different programs within departments, each with its own rules, regulations, and requirements, makes it difficult to plan and coordinate BD/ED activities.

Responding to the problems associated with multiple funding sources, the federal government has developed initiatives to support tribal efforts to better coordinate and manage federal funding in accordance with tribal goals and objectives. One of these federal initiatives is the Indian Employment, Training, and Related Services Demonstration Act of 1992 (PL 102-477), which authorizes tribes to integrate employment, training, and related services funded by the departments of Education, Interior, and Health and Human Services. Tribes participating in the program (“477 tribes”) submit a single set of reports to the BIA, and within statutory limits, they can reprogram federal grant funds in accordance with the goals and objectives of their 477 program.<sup>1</sup> Title XI of the “Indian Employment, Training, and Related Services Demonstration Act Amendments of 2000” permits DHHS to waive statutory provisions of TANF and to approve tribal 477 plans to use up to 25 percent of 477 project funds for

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<sup>1</sup> Section 14(a)(1) of PL 102-477 requires that program funds “shall be administered in such a manner so as to allow for a determination that funds from specific programs . . . are spent on allowable activities authorized under such programs.” However, the federal agency providing the funds has “the authority to waive any statutory requirement, regulation, or policy or procedure promulgated by that agency.”

creating employment opportunities and related training (U.S. Department of Health and Human Services 2002).<sup>2</sup> Three tribes in the study (Citizen Potawatomi, Colville, and Three Affiliated Tribes) participate in the 477 program. Officials at these tribes were enthusiastic about the flexibility of the program, saying that the 477 program was especially valuable to their BD/ED plans and activities.

For each of the tribes in the study, BD/ED planning has undergone significant changes in recent years in response to tribal priorities and to federal initiatives that support Indian self-determination and self-governance. Prior to the passage of the Indian Self-Determination and Education Assistance Act of 1975 (ISDEAA), much of the planning was managed or performed by BIA staff. Legislation supporting tribal self-determination and self-governance has enabled the tribes in the study gradually to take over responsibility for and control of BD/ED activities as well as many other programs and initiatives. Most of the tribes in the study (and both Native corporations) ranked BD/ED among their highest priorities and devote staff and financial resources to setting and achieving BD/ED goals.

### 3.2 Types of Tribal BD/ED Activities

The tribes/Native corporations in the study have developed a wide range of BD/ED activities, generally building their efforts on their natural resources and other favorable conditions such as a location near tourism/recreation attractions (national parks and monuments, hunting, fishing, and skiing). The tribes participating in the study developed businesses in the service sector (gaming, tourism, banking, information technology, retail sales), construction, manufacturing, and natural resource exploitation (mining, forest products, farming).

**Gaming.** All but one of the tribes in the study operate gaming facilities (only Navajo Nation does not).<sup>3</sup> The scale of these gaming operations and their importance to tribes has ranged from substantial (more than \$50 million a year) to modest (less than \$1 million a year). Gaming profits have transformed the economies of some tribes (Gila River, Cheyenne River Sioux); for other tribes (Citizen Potawatomi, Colville, Three Affiliated Tribes, Turtle Mountain Chippewa), gaming has produced significant profits that have boosted, but not transformed, their economies. Interestingly, because the tribe had already approached full employment and was operating many successful businesses, Mississippi Choctaw's large and profitable gaming operations have produced less dramatic effects than otherwise would have occurred.

**Tourism and Recreation.** Each of the tribes in the study had some type of tourism/recreation operation. In about half the instances, these operations were tightly bundled with gaming, and in about half, tourism operations were only loosely connected to tribal gaming. For example, both Choctaw and Gila River are constructing "four-star" hotels with conference centers, restaurants, golf courses, and other attractions to complement their gaming operations. Three Affiliated Tribes is coordinating tourism-related activities with its gaming operations, including a new cultural interpretation center—a \$12 million investment.

Not all tribal tourism activities are associated with gaming. Navajo Nation draws tourists to national monuments and other scenic attractions on the reservation; Cheyenne River Sioux, Colville, and Three Affiliated Tribes operate campgrounds and marinas on their reservations. Citizen

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<sup>2</sup> The percentage of 477 funds that may be used for "the creation of employment opportunities" is the greater of (1) the unemployment rate in the tribe's service area (up to a maximum of 25%), or (2) 10%.

<sup>3</sup> Since the Indian Gaming Regulatory Act of 1988 does not authorize Alaska regional Native corporations to operate gaming facilities, neither BBNC nor Doyon, Ltd. has gaming operations.

Potawatomi operates a golf course and bowling facility, but unlike Choctaw and Gila River, the Potawatomi golf course is not closely tied to its more modest gaming operation. Doyon Tourism, Inc., owned by the Doyon Corporation, operates a roadhouse, Denali River Cabins, and Kantishna Wilderness Trails.

**Information Technology.** One of the Alaska Native corporations and three of the tribes in the study have established high levels of development in the information technology sector. In each case, development was stimulated by advances in other sectors. For example, at Gila River, the need for telephone service, the growth and development of three casinos, and construction of hotels created the need for sophisticated telecommunication and computing resources. Leveraging these needs, the tribe developed Gila River Telecommunications, Inc. (GRTI), which has installed fiber optic cable to support high-speed, high-bandwidth Internet access and other services to businesses and residences on the reservation. In addition, GRTI is a minority owner in Gila River Cellular General Partnership, which provides cellular access to rural areas in Arizona.

Both the Bristol Bay Native Corporation and the Mississippi Choctaw tribe acquired information technology companies as part of their economic expansion and diversification activities. Bristol Bay created Vista International in 1998 and acquired SpecPro, Inc. in 2001. Vista International was started to provide IT support for the USDA's Foreign Agricultural Services, and its clients include the Department of Defense and each military service. SpecPro provides system engineering and other services to federal agencies and private-sector clients in 13 states and participates in the SBA 8(a) program. Mississippi Choctaw recently acquired Applied Geo Technologies, Inc., which provides digital mapping, aerial and satellite imagery production services.

**Construction.** Both Alaska Native regional corporations and two of the tribes in the study have developed a strong presence in the construction sector. The Colville tribe has several companies engaged in construction projects that include building of roads and highways; building of septic systems; and shoreline stabilization, conducted for federal agencies by a company that participates in the SBA 8(a) program. Much of Three Affiliated Tribes' current BD/ED centers on construction, including a gravel processing plant, road construction and improvement, an oil refinery, expansion of tribal housing, enhancement of the Fort Berthold rural water system, and expansion related to Four Bears Casino (including apartments, a lagoon bed with a boat ramp, an amphitheater, and expanded RV parking) and a community center (including a gymnasium).

Environmental engineering and construction has been one of the most profitable investments made by Bristol Bay Native Corporation (BBNC) through its wholly owned subsidiary Bristol Environmental & Engineering Services Corporation (BEESC). The major resources of the BBNC region include commercial fishing (the Bristol Bay area has one of the world's greatest salmon and herring fisheries) and hunting. However, BBNC derives the bulk of its revenues from asset management (the corporation is an investor in a diversified portfolio of stocks and bonds), and earnings of wholly owned environmental engineering and information technology firms. Nevertheless, the status of the natural resources of its region does affect BBNC. When the Bristol Bay fisheries were prosperous, many BBNC shareholders opposed oil and gas exploration, fearing damage to the fisheries, and the corporation eschewed investment in it. However, in recent years, a dramatic decline in the fisheries has occurred. Since the decline in Bristol Bay fisheries, BBNC shareholders have expressed support for oil and gas exploration, and the corporation is working with the State of Alaska to sell leases to extract the subsurface oil and gas.

**Manufacturing and Industrial Parks.** One of the Alaska Native corporations (Bristol Bay) and four of the tribes in the study have established high levels of development in the manufacturing sector. Located in east-central Mississippi, the Choctaw tribe began its modern BD/ED initiatives in 1969 using federal funds and a local bond issue to develop an industrial park. The tribe was able to induce two private-sector firms (General Motors and American Greeting Cards) to build manufacturing facilities in its park. Other study tribes (Gila River and Cheyenne River Sioux), aware of the success of the Choctaw, have built industrial parks. Three Affiliated Tribes, working with Northrop Grumman, Inc., has a plant that manufactures aircraft parts on the Ft. Berthold Reservation. The tribes also operate two building construction companies (Ft. Berthold Development Corporation and Twin Buttes Custom Homes, Inc.).

Mississippi Choctaw has one of the most successful tribal BD/ED programs, and the tribe’s initial modern BD/ED efforts focused on manufacturing. Tribal officials attribute much of their success to their manufacturing operations, which include separate companies making automobile loudspeakers and wiring harnesses and a custom plastic molding manufacturer (Table 3.1).

**Table 3.1. Mississippi Choctaw Manufacturing Companies**

<b>Company</b>	<b>Annual Sales</b>	<b>Workforce</b>	<b>Description</b>
Choctaw Electronics Enterprise	\$40 million	225	Automobile loudspeaker manufacturing, joint venture with Harmon Becker International; plants in the USA and Mexico
Choctaw Manufacturing Enterprise	\$20 million	370	Automotive wiring harness assembly
First American Plastic Molding Enterprise	\$10 million	220	Joint venture with Quad, Inc., with plants in Michigan, Illinois, and Texas

**Resource Utilization and Management.** Each of the study tribes and Native corporations extracts or harvests and sells minerals, crude oil, or forest/agricultural products. Four of the tribes/Native corporations have businesses that sell timber and forest products and/or operate sawmills. For example, Colville, with 700,000 acres of forests, initially sold raw lumber, subsequently acquired a sawmill, and now manufactures a variety of forest products. Mississippi Choctaw, Navajo Nation, and Doyon, Ltd. harvest timber and sell forest products.

One tribe and one Alaska Native corporation have major mineral extraction activities. Navajo Nation mines coal and uranium, often through leases to private-sector companies. Navajo Nation is a major supplier to coal-fired electricity generators in the Southwest. Doyon, Ltd. owns Doyon Drilling, Inc. (DDI), which provides services to oil and gas extraction companies and operates five rigs on the North Slope of Alaska. Its equipment includes some of the most technologically advanced land drilling rigs in the world. Three Affiliated Tribes is building an oil refinery on its lands. In recent years, the Colville tribe, with funding and technical assistance from the Energy Department Green Tag Program for renewable energy production and from the USDA, implemented an innovative co-generation plant that burns sawdust, a byproduct from nearby sawmills, to generate steam. The Colville plant uses steam-driven turbines to generate electrical power.

Farming and ranching are important businesses for each of the tribes in the study. In most cases, these are done by individual tribal members on allotted lands or using permits issued by the tribe. However, in some cases, the tribe owns the businesses. For example, Citizen Potawatomi recently purchased a farm to grow vegetables, which the tribe sells in its supermarket.

### 3.3 Federal Programs/Initiatives Most Beneficial to Study Tribes

Every tribe/Native corporation in the study benefited from one or more federal programs promoting BD/ED; however, no single program/initiative was especially beneficial to all tribes in the study. Which program was the most valuable depended on the unique needs, circumstances, and characteristics of the tribe/Native corporation. The programs/initiatives that were most helpful to the tribes in the study are gaming, USDA rural development in combination with the EZ/EC program, and the SBA 8(a) and HUBZone programs.

**Gaming.** Unlike other federal initiatives, the federal government has not provided financial support for Indian gaming. Rather, federal legislation provided the legal foundation for the growth of this industry. While gaming is generally regulated by states, the Indian Gaming Regulatory Act of 1988 (PL 100-497) authorizes and regulates gaming in Indian country.

Gaming has transformed some tribal economies and has provided a stimulus to others. Despite some significant successes, most tribes do not participate in gaming operations, and, despite significant investments, some tribal gaming operations have been unsuccessful and have closed. Others have produced only modest profits. Still, as of 2001, 201 of 561 then federally recognized tribes operated Class II or Class III gaming.<sup>4</sup> Total revenues for these operations were \$12.7 billion (National Indian Gaming Association 2003).

The following descriptions show how gaming has transformed the economy of one of the tribes in the study (Gila River) and further stimulated the already strong economy of Mississippi Choctaw. The Gila River reservation, which covers nearly 600 square miles, is close to Phoenix, Tempe, and Mesa, Arizona. Before 1993, when the tribe negotiated a gaming compact with the State of Arizona, the tribe's primary economic activities were associated with farming. The unemployment rate of tribal members was greater than 50 percent, and informants said that many families lived in poverty. In 1993, the tribe constructed its first gaming facility with the aid of loans from local banks. The operation was a success, often drawing more customers than could be accommodated, and generating substantial profits. The tribe quickly paid off the original loans, expanded and improved the facility, and opened two more. The operation of these three facilities dramatically improved the tribal economy, providing nearly 2,000 jobs, 60 percent of which are filled by tribal members. Using the profits generated by its gaming operations, the tribe has diversified its investments by building a championship golf course (and contracting with an experienced manager to operate it); a 500-room resort and spa (managed by Starwood Hotels & Resorts Worldwide, Inc.); an equestrian facility; and two industrial parks.

The Mississippi Choctaw Tribe also operates successful gaming facilities and, like Gila River, is using the profits generated to expand its economy. However, unlike Gila River (and most other tribes), prior to implementing major gaming operations, the Choctaw had already developed a strong and diversified economy that includes manufacturing facilities (Chata Enterprise, Chata Electronics Enterprise) and operation of an industrial park. Before it implemented gaming, the tribe had become one of the largest employers in the region. The Choctaw have used the profits of their gaming operations to finance the development of:

- A 15-acre water theme park with waterslides, a wave pool, a man-made island with waterfalls, and an 8-acre white-sand beach

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<sup>4</sup> As of March 1, 2004, there were 565 federally recognized tribes.

- Two major resort hotels with a total of more than 1,000 rooms and abundant meeting and convention space
- A dozen restaurants
- A championship golf course

The tribe is investing in the development of new ventures on the reservation, in other locations in Mississippi, and abroad, as well as acquiring existing businesses. Responding to competitive pressures, in 1998, a key client of Chata Enterprise (the Ford Motor Company), planned to switch to a manufacturer of automotive wiring harnesses located in Mexico. Rather than abandoning this business activity, Chata opened an automotive wiring harness facility in Guyamas, Mexico. Subsequently, two other tribal companies (Choctaw Electronics and First American Plastics) also opened facilities in Mexico. The tribe's decision to expand into Mexico has paved the way for the tribe's emergence as a competitor in international manufacturing markets. In its reservation, the tribe is working to replace low-skill, low-paying manufacturing jobs that moved to Mexico with higher-skill, higher-wage work in the technology sector.

**USDA Rural Development Programs and EZ/EC.** Informants at four of the tribes in the study (Colville, Citizen Potawatomi, Gila River, and Navajo) said the USDA rural development programs have been among the most beneficial of all federal programs to their BD/ED initiatives. USDA designated both Colville and Navajo as ECs.

The Navajo Nation and Colville Tribe offer examples of how rural economic development programs and EZ/EC designation can leverage resources for BD/ED. Along with their EC partners, these tribes were able to leverage funds from a broad range of federal, state, local, and tribal government sources as well as some private sector funding (Table 3.2).

The Four Corners Enterprise Community is located in parts of three states: northeastern Arizona, southeastern Utah, and northwestern New Mexico. This area, which includes the northern portion of Navajo Nation, involves 22 Navajo Nation Chapter Houses (communities) and the Hopi and Ute tribes.

As of May 2003, Four Corners received more than \$29 million in federal, state, local government, tribal government, and private funding for a broad range of development initiatives:

- **Agriculture.** Formed community-based farm cooperative; improved irrigation canals; constructed outlet marketing center; created joint venture partnership with Lamb Western
- **Community Facilities.** Constructed a community and recreation center; renovated a Chapter House building; constructed a learning center, park, and other facilities
- **Infrastructure.** Constructed a water system; designed and developed 26 solid-waste transfer stations and closed 92 open dumps

- **Early Childhood Education.** Constructed or renovated 11 Head Start facilities
- **Health Care.** Developed a diabetes prevention program; renovated a building for fitness/nutrition center; renovated and expanded a medical clinic
- **Housing Improvements.** Renovated or constructed 107 housing units for low-income tribal members
- **Tourism.** Designed and developed a marina, a campground, and support facilities

**Table 3.2. Tribal EZ/EC Funding in 2003**

<b>Funding Source</b>	<b>Amount (\$)</b>	
	<b>Four Corners</b>	<b>Five Star</b>
USDA EZ/EC	1,321,100	423,501
Other USDA	3,190,116	11,257,405
DHHS	110,000	2,472,572
HUD	975,000	1,792,000
Interior	7,118,200	405,000
DOT	183,333	0
EDA	0	137,676
EPA	1,227,477	350,000
FEMA		77,504
Education		2,500
State	7,681,950	3,008,586
Local/Regional	592,500	560,156
Private Sector	460,100	701,487
Non-profit	123,500	596,007
Tribal	6,063,036	5,685,834
Other	0	210,404
<b>TOTAL</b>	<b>29,046,312</b>	<b>27,680,632</b>

Source: USDA-OCD Benchmark Management System.

The Colville Tribe joined with the Spokane Tribe and four counties in the state of Washington (Pend Oreille, Stevens, Okanogan, and Ferry) to form the Five Star Enterprise Community (Five Star). The Tri-county area includes the Spokane Reservation, located in Stevens County, and the Colville Indian Reservation, one of the largest reservations in the state. Okanogan and Ferry counties bisect the reservation near its center. Historically, this region has been a resource-based economy (logging, wood products, and agricultural fields). Jobs and revenues from these long-time economic pillars have diminished without being replaced by other industries. Diversification of the economy to move out of the “boom-bust” cycles of resource-based industries is a key component of the strategic plan. Today, these communities have gone beyond their boundaries to engage in economic partnerships that will invigorate the Tri-county region.

The Five Star Enterprise Community has received over \$27 million in federal and state funding to achieve a broad range of development activities:

- **Housing.** Constructed and rehabilitated affordable housing and a planned unit development.
- **Infrastructure.** Developed clean drinking water, safe sewage disposal, solid waste, telecommunications, and transportation systems
- **Economic Development.** Assessed project feasibility, funded a microenterprise incubator, and supported tourism, industry recruitment, small business development, and recreation facilities
- **Communication.** Developed a networking partnership, and facilitated resource sharing
- **Education and Employment Services.** Funded child care, adult education, transportation, small business assistance, telecommunications, services to teen parents, youth training, education and training assistance, volunteerism, higher-education opportunities
- **Health/Safety/Welfare.** Constructed or rehabilitated community public service facilities including fire, police, health, and emergency buildings as well as community amenities (parks, buffer areas).

**SBA 8(a) and HUBZone Programs.** The SBA 8(a) and HUBZone programs have been important to some, but not all, tribes and Alaska Native corporations. The programs have provided important BD/ED stimulus for four of the tribes (Cheyenne River Sioux, Colville, Mississippi Choctaw, Three Affiliated) and one of the Alaska Native corporations (BBNC) in the study. The 8(a) and HUBZone programs permit and encourage all federal agencies to set aside procurements of goods and services for small businesses that participate in the programs. Generally, procurements with a value of \$1 million or more are competed among three or more 8(a) firms; however, this requirement is waived, by statute, for firms owned and operated by tribes or Alaska Native corporations. By statute, every Indian reservation is located in a HUBZone, and almost every tribally owned company that participates in the 8(a) program also participates in the HUBZone program. The following are examples of tribal businesses that have used these programs to secure federal contracts, partner with larger companies, create jobs for tribal members, and generate revenues for business expansion and infrastructure improvements.

BBNC operates BEESC, an Alaska-based company that provides environmental, civil engineering, and construction services (average annual sales, \$17 million); and CCI, Inc., an Alaska-based company that provides construction and environmental services to government and oil field clients with 50 employees (annual sales, over \$5 million). BEESC has facilities in Anchorage, Alaska; Marysville, Washington; and San Antonio, Texas. CCI has facilities in Anchorage and Prudhoe Bay and in Seattle, Washington. While these firms are profitable for BBNC, they do not provide employment opportunities for shareholders who wish to continue to live in their Native villages, remote from BEESC and CCI facilities.

Colville Confederated Tribes owns Colville Tribal Enterprise Corporation (CTEC), which has a wholly owned subsidiary that provides complete construction services, including design/build, commercial and industrial, roads improvement, heavy construction, water, sewer, pipeline, communications, and base housing maintenance. CTEC has a workforce of 90 employees and average annual sales of over \$14 million.

Mississippi Choctaw owns Applied Geo Technologies, Inc. (AGT), a digital mapping service. AGT was formed with the express purpose of bringing high-technology opportunities to the tribe, and it is the only tribal business that is authorized to pursue federal contract work. AGT provides digital mapping, aerial and satellite imagery production, geodetic and photogram metric engineering, digitizing, and conversion services to federal, state, and local governments and commercial businesses.

Three Affiliated Tribes owns Mandaree Enterprise Corporation (MEC), a full-service information technology and electronic manufacturing corporation. MEC was founded in 1990 by the Mandan, Hidatsa, and Arikara Nations of Three Affiliated Tribes, with the vision of providing the IT industry with product diversity and flexibility. MEC's annual sales exceed \$4 million, and it employs about 200. Working with Northrop Grumman, MEC creates and repairs circuit boards for the U.S. Air Force, specifically in the F-14 Tomcat, B-2 Bomber, E-3 Sentry, OH-8D Warrior Helicopter, and BQM-74E Target programs.

The Cheyenne River Sioux tribe owns Lakota Technologies, Inc., which provides a broad range of IT services to federal agencies and other clients, including data processing and conversion, computer programming, computer facilities management, and call center/help desk and telephone services. The company has 70 employees and average annual sales in excess of \$1 million.

Each of these tribal 8(a)/HUBZone companies employs tribal members, members of other tribes or Native villages, and non-Indians/non-Natives. The number and proportions of tribal members employed fluctuates over time and varies depending on factors such as the location of the business facilities (the greater the distance of the facilities from the reservation, the lower the proportion of tribal employees), and the nature of the work performed ("high tech" businesses tend to employ a lower proportion of tribal members than manufacturing or service sector firms primarily due to the relatively low levels of highly skilled and trained workers residing on reservations). The proportion of tribal members employed by these businesses at the time of the study ranged from highs at the reservation-based Lakota Technologies and MEC (about 60% of the workforce at each company were tribal members) to lows at facilities distant from the reservation—less than 5 percent of the employees at the BEESC facility in San Antonio Texas and the CCI facility in Seattle, Washington were members of Native villages in the Bristol Bay and Tanana Chiefs regions respectively.

Concern about the employment of large numbers or proportions of persons who are not tribal members by tribally-owned enterprises seemed to vary as a function of the levels of unemployment and poverty on the reservation, the nature of the work to be performed, the location of the business, and values related to work, profit, and the accumulation of wealth. Officials at the Mississippi Choctaw and Citizen Potawatomi tribes, which enjoy relatively low levels of unemployment, said that objection to the employment of non-tribal members is rare. The Choctaw take pride in being one of the largest employers in the state of Mississippi. On the other hand, officials at both the Alaska Native corporations, BBNC and Doyon, Ltd., said that their shareholders and Native village officials advocate the expansion of employment opportunities in the villages. At each study site, tribal officials said that work and productivity are central values. In some cases, work and productivity are valued in association with the ability to function independently, without the need to depend on welfare for survival. In other cases, work and productivity are valued in association with the ability to contribute to one's family, clan, and the tribe. Often, work and productivity were valued in both ways—in association with the ability to function independently and with the ability to contribute to family, clan, and tribe.

### 3.4 Measuring BD/ED Success

Discussions with tribal officials and reviews of available reports of tribal enterprises indicate that few tribes have integrated formal monitoring and assessment with their planning and management of tribal BD/ED. Measuring the success of individual business efforts differs from assessing progress in achieving tribal BD/ED goals and objectives, but both types of analysis are needed for continuous improvement of tribal initiatives.

It is easier to assess the performance of a business than that of overall BD/ED planning and activities. As with most business, the performance of individual tribal businesses is measured in terms of return on investment, profitability, sales growth, and worker productivity. While this information may be available in annual reports or other documents, its use is generally limited to individual business owners/managers and investors. At the tribal level, each of the tribes/Native corporations produces annual financial statements prepared by independent certified public accountants. Such financial statements, which are required of all recipients of federal funds, provide detailed information on the investments of the tribe/Native corporation, and the expected and actual expenses, revenues, profits, and losses for each line of investment. However, none of the tribes used comprehensive measures of BD/ED success, such as the gross domestic product output generated through production by labor and property that is physically located within the confines of the reservation (or other political entity), the number of persons employed by tribal enterprises or tribally supported business, the wages paid by such businesses and enterprises, or the return on investments made by the tribe.

Process measures were more commonly used by tribes/Native corporations to monitor BD/ED planning activities. Tribes/Native corporations tracked adherence to schedules and percent completion of specified tasks such as conducting community meetings to describe plans and obtain feedback, conducting market surveys, developing staffing plans, and estimating start-up costs, facilities, materials, and equipment needed. For example, both Colville and Three Affiliated Tribes have implemented a five-year planning process, and planning efforts are evaluated with respect to adherence to schedules. In some cases (such as Mississippi Choctaw, Gila River) growth of the tribal economy has been so great and fast that there has been little time or perceived need to measure the quality of planning and implementation. Nevertheless, rapid growth without detailed planning can create problems and waste resources. One tribe addressed the housing shortage on the reservation by constructing over 100 residential homes per year—a threefold increase. However, because of a lapse in planning, some houses did not get utility hookups for several months.

Since the expansion of tribal BD/ED activity has occurred mostly in the past 10 years, it is not surprising that measurement and evaluation are not fully developed and used for planning purposes. Some tribes have developed formal planning processes, and others have identified the need for improved monitoring and planning based on experience to date.

## 4. Challenges and Solutions to Tribal BD/ED

Tribes and Alaska Native corporations are developing ways to overcome or minimize challenges and barriers to their BD/ED efforts. Study participants identified the following critical challenges to BD/ED: (1) complex legal, administrative, and political barriers; (2) lack of access to investment capital; and (3) poor coordination of business-related activities within the tribe and with neighboring cities and counties. Tribes and Alaska Native corporations are developing promising approaches to address each of these challenges. In addition, some federal initiatives have the potential to improve access to investment capital. If these approaches prove to be successful, the tribes/Native corporations could make advances in BD/ED.

### 4.1 Overcoming Legal, Administrative, and Organizational Barriers

Tribal officials said that they are committed to eliminating or minimizing legal, administrative, and political barriers that often dampen their BD/ED initiatives. Tribes are negotiating limited waivers to sovereignty on a deal-by-deal basis with non-tribal investors and businesses; insulating tribal businesses from undue political interference; and reducing administrative burdens, such as review and approval required for establishing or expanding businesses on the reservation.

**Reducing Investor Risk with Limited Waiver of Tribal Sovereignty.** While federal support of tribal sovereignty has been especially valuable to tribal BD/ED (see Chapter 3), tribal sovereignty can deter investment on a reservation. Investors seek to minimize risks and maximize returns, so the inability to sue or otherwise seek resolution of disputes with a tribe in state courts, or the requirement to use tribal courts, can kill and has killed business deals in Indian country. Aware of this problem, tribes and investors have sometimes entered into agreements that limit tribal sovereignty by stipulating that disputes can be brought to state courts or addressed in another fashion mutually agreeable to the tribe and the investor. Even so, because sovereignty is so valuable to tribes, and because they have fought so hard to maintain their sovereignty, they find it difficult to impose or accept such limits.

**Minimizing Political Interference in BD/ED Planning and Operation.** Managers of tribal businesses, and some tribal officials we interviewed, emphasized the importance of insulating BD/ED activities from direct control by tribal government. The managers said that elected tribal officials face circumstances that tend to interfere with efficient and profitable business practices. Several study informants cited the research of the Harvard Project on American Indian Economic Development as the inspiration or support of this view. In particular, the Harvard Project reported on the importance of institutionalizing successful tribal government activities so that they outlast the political term or influence of their initial proponents.<sup>1</sup>

There are several reasons to prohibit elected tribal officials, whether in the legislative or the executive branches, from direct involvement in the operation of a tribal business. The reasons most cited were tribal officials' lack of business experience and their vulnerability to political pressures. Study informants said that experience or expertise in business management is seldom a campaign issue

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<sup>1</sup> The Harvard Project, created in 1986, is housed at the John F. Kennedy School of Government at Harvard University. In collaboration with the Udall Center for Studies in Public Policy at the University of Arizona, the Harvard Project works for and with tribes and tribal organizations to research and document tribal governance and economic development. For more information, see [[www.ksg.harvard.edu/hpaied](http://www.ksg.harvard.edu/hpaied)].

or qualification for office in tribal elections. Consequently, tribal officials may lack experience or expertise needed for successful business planning and operation. Because unemployment is so high and jobs so scarce in much of Indian country, elected officials may be pressured by tribal members to create employment opportunities in tribal government or in tribally owned businesses. Conversely, changes in elective office may result in staff changes in tribal programs and businesses, with a resultant loss of “institutional memory” and continuity and concomitant constraints on business operations and development.

Because elected representatives can be easily replaced, by recall or through defeat in the next election, it can be difficult for them to decide in favor of investing the profits of tribally owned companies, or to make long-term commitments that sacrifice short-term profits or jobs. On the other hand, study informants generally acknowledged that tribally owned businesses are responsible ultimately to their stockholders or owners—tribal members—and that it is appropriate and necessary for elected tribal officials to exercise some control over tribally owned companies. Officials are challenged to strike a balance between exercising prudent oversight of tribal businesses without becoming engaged in their operations.

Tribes in the study developed several strategies to insulate BD/ED activities from direct control by elected officials. These strategies generally focused on the autonomy of the board of directors and officers of tribally owned businesses. The Colville tribe provides a good example of such a strategy. They established a tribally chartered corporation, CTEC, to be responsible for the bulk of BD/ED planning and operations. The tribal Business Committee (the tribe’s legislative body) appoints the CTEC Board of Directors, and all shares of the corporation are controlled by the Business Committee, which, however, does not have the authority to make CTEC business or employment decisions. A development group consisting of members of the Business Committee, the tribal planner, and representatives of CTEC meet monthly to review business proposals in accordance with a priority list, several criteria, and a schedule established by the development group. Informants at Colville said that the establishment of CTEC greatly improved BD/ED planning and the management of tribally owned businesses.

Other tribes have adopted or are trying to adopt similar approaches to separating tribal government from day-to-day planning and operation of tribally owned businesses. At Three Affiliated Tribes, the office responsible for BD/ED—the Community Economic Development Services Office (CEDS)—is trying to stop entrepreneurs from seeking support directly from the Tribal Council. At the time of the interview, CEDS was reviewing a proposal for the development of an ethanol plant on the reservation. In the past, the applicant would have gone directly to the Tribal Council for approval of the proposed plant. Now, CEDS will review the proposal and make recommendations to the council. The Mississippi Choctaw Tribe’s Business Enterprise Division falls under the executive branch of tribal government. However, each tribal enterprise has its own board of directors and chief operating officer, who manage daily operations. At Citizen Potawatomi, the Tribal Business Committee (the tribe’s legislative branch) does participate actively in many aspects of BD/ED. Each tribal enterprise submits monthly statements to the Business Committee. However, most of the BD/ED planning is done by the Tribe’s 477 program, and the Business Committee has little direct control in the operation of the various tribal enterprises.

While the circumstances of the two Alaska Native corporations in the study are different from those of the tribes, the corporations are also subject to pressures from stockholders and their respective Native villages—pressures that may be incompatible with good business practices. Native

corporations have more constituent groups than most tribes or Native villages. A tribally owned company generally has two key groups of constituents: shareholders (tribal members) and the Tribal Council. A Native corporation's constituents include the Native villages and tribes of their shareholders, as well as the corresponding regional Alaska Native Association. For example, Bristol Bay's shareholders are members of 32 tribes and Native villages of the Bristol Bay region, and Doyon's are members of 34 tribes and Native villages in its region. While some shareholders in the regional Native corporations may advocate on a variety of issues (e.g., conservation of resources, environmental protection), payment of quarterly and/or annual dividends to shareholders tends to be among the most important concerns. Because of the high unemployment rates and low levels of annual income in some Native villages, corporate dividends are an important source of income to many shareholders. Informants suggested that some shareholders advocate payment of dividends whatever the corporation's performance. Informants said that the regional Native corporations try to counter such pressures with stockholder education campaigns explaining that capital losses can compromise the strength of the corporation and its value to future generations.

**Streamlining Complicated Business Approval Processes.** For some tribes, the approval process for establishing or expanding a business can be so complicated and lengthy that potential businesses are discouraged or prevented from establishing a presence on the reservation. Complications arise from land ownership and land use issues, as well as from trustee relationships with the federal government. Examples included here illustrate the difficulties and some of the ways that tribes have tried to facilitate BD/ED in spite of these barriers.

The business approval process is especially difficult at Navajo Nation. One of the biggest problems is that tribal members have grazing permits for much of the reservation land, including land surrounding towns like Window Rock, Chinle, and Tuba City. When a business selects a potential construction site, it must secure permission from the grazing permit holder. Tribal officials said that construction cannot proceed if the permit holders do not agree to give up their grazing rights to the proposed site. Navajo Nation has a right of eminent domain, but tribal officials are reluctant to use it for fear of alienating voters. Many of the grazing permit holders are tribal elders respected by tribal members, and sheep herding is a traditional Navajo activity of deep cultural significance. In 1950, the Tribal Council passed a resolution setting aside for business/economic development all land within 750 feet of the center of highways on the reservation. However, this resolution has not been enforced. Tribal officials said an example of the power of grazing permit holders is illustrated by an effort to withdraw 200 acres from grazing for development of a mall that would include Home Depot and Wal-Mart, retail stores that sell materials in demand on the reservation and that would create badly needed jobs. However, two grazing permit holders would not give up their rights, so the deal was scuttled.

In addition to approval by grazing permit holders, business permits at Navajo require approval by relevant tribal offices, the tribal attorney, and, finally, the president of Navajo Nation. Any question raised by a tribal reviewing office or official must be addressed by the applicant. After completion of the review process, which may take as long as a year, the business may have to secure approval by the BIA. The BIA, acting as trustee for the land and other tribal resources, may require that the potential business conduct an environmental impact study and/or archeological survey, either of which can cost as much as \$10,000. Tribal officials said that the time and expense these review and approval processes require cause many business deals to founder. While this study was being conducted, Navajo tribal officials were trying to develop ways to expedite and facilitate business development that would be acceptable to the Tribal Council and to tribal members.

## 4.2 Increasing Access to Investment Capital

Tribes participating in the study are using four innovative strategies to increase access to investment capital. They are (1) negotiating, with investors and companies, agreements that include a limited waiver of tribal sovereignty (discussed above); (2) persuading lenders to use leasehold improvements as collateral for business loans; (3) using federal support to issue bonds; and (4) developing CDFIs.

**Using Leasehold Improvements as Collateral for Loans.** The trust relationship between tribes and the United States limits the availability of investment capital in Indian country. The United States, primarily through the BIA, serves as trustee for each federally recognized Indian tribe. Most reservation land (as well as other assets) is held in trust for tribes and cannot be sold without permission of the BIA, acting as trustee. Because the land is held in trust, banks and other lenders will not accept it as collateral for a mortgage. Thus, a tribe cannot use one of its most valuable assets to leverage investment capital.

Three tribes in the study (Citizen Potawatomi, Mississippi Choctaw, and Navajo Nation) reported they were able to induce banks to make loans to them using leasehold improvements as collateral. In each case, the tribe wanted to construct a building or to renovate an existing building needed to operate a tribally owned business or tribal program. A bank was willing to accept as collateral the improvements on the land (the new or renovated building) rather than the trust land.

A leasehold improvement approach used by Navajo Nation can serve as a model for other tribes. This effort promoted entrepreneurial activities by tribal members, rehabilitated a building that had been long vacant, leveraged federal welfare reform funding, and provided facilities required to operate the federally funded program. A large building in one of the largest Navajo communities (Shiprock, New Mexico) was structurally sound but had remained abandoned for eight years after the manufacturing business using it was closed. When Navajo Nation took over operation of the TANF program, it sought to open several satellite offices throughout the reservation, including Shiprock. A construction firm owned by a tribal member negotiated a deal with Navajo Nation to rehabilitate the building in accordance with the specifications of the tribal TANF program. No TANF funds were expended to renovate the building—the TANF program signed a long-term lease with the construction company, which used the lease as collateral for a bank loan. The construction company used the loan to finance the rehabilitation needed by the TANF program. In addition, the builder was able to develop space in the renovated building for a restaurant and retail stores.

Because of the great potential for profits, some tribes found it easy to obtain financing for gaming facilities and operations. For example, a local bank and a gaming machine manufacturer lent the Gila River Tribe funds needed to purchase and install its first “video slot and poker machines.” Within three months, the tribe was able to pay off the loans with profits generated by its gaming operations.

**Issuing Tax Free Bonds.** One of the tribes participating in the study, Mississippi Choctaw, was among the first to generate investment capital by issuing a bond. In 1969, the Choctaw issued a bond to help fund the construction of an industrial park on the reservation. This industrial park served as the foundation for the tribe’s many BD/ED successes. The Indian Tribal Governmental Tax Status Act of 1982 (26 USC Sec. 7871) generally treats tribes like states in raising capital through the sale of bonds, with one restriction not applied to states—tribes can issue tax-exempt revenue bonds only for “essential government functions.” Informants at several tribes said that this requirement is ambiguous:

before a tribe could issue a bond, it might have to obtain a ruling from the Internal Revenue Service that the project to be funded meets the essential-government-functions requirement. Tribal officials said that this ambiguity, along with difficulty in obtaining favorable ratings from credit rating agencies such as Standard and Poor's, has deterred tribes from issuing bonds to finance BD/ED.

Federal legislation has been introduced to liberalize some of the current restrictions on the issuance of tribal tax-exempt bonds. For example, the Tribal Government Tax-Exempt Bond Fairness Act of 2003 (H.R. 1421) would allow tribes to issue bonds to finance business activities, such as golf courses and other non-governmental establishments, on Indian lands. Another bill, the Tribal Economic Enhancement Act of 2003 (S. 1542), has many provisions designed to promote economic development in Indian country, including liberalizing the tax exemption.

**Creating Community Development Entities (CDEs) and Community Development Financial Institutions (CDFIs) to Provide Investment Capital.** Three of the tribes/Native corporations in the study (Citizen Potawatomi, Navajo Nation, and Doyon, Ltd.) have received grants from the CDFI Fund to develop a CDFI.<sup>2</sup> The programs focus on increasing capital for housing or business expansion on the reservations. CDFIs provide a wide range of financial products and services, including mortgages for first-time homebuyers, financing for community facilities, commercial loans and investments to start or expand small businesses. In 1996, Navajo Nation, through a joint effort with the Neighborhood Reinvestment Corporation, developed the Navajo Partnership for Housing, Inc. This CDFI is developing a capitalization strategy, obtaining training about technical aspects of mortgage lending, and developing a curriculum to educate professionals involved in the lending process to facilitate mortgage lending on and near the Navajo reservation. When the study data were collected, the Citizen Potawatomi Tribe was in the process of obtaining certification from the Treasury Department. The Potawatomi plan to use their CDFI to support small business development.

### **4.3 Improving Collaboration with States, Counties, and Other Tribes**

Despite a history of disputes and conflicts of interest, tribes have increasingly cooperated with states and counties in such areas as welfare reform and BD/ED. Many states and counties have worked closely with tribes taking over the operation of TANF programs (Hillabrant et al. 2003). Six tribes in the study (Colville, Citizen Potawatomi, Gila River, Navajo Nation, Three Affiliated Tribes, Turtle Mountain Chippewa) reported mutually beneficial coordination of BD/ED activities with states, counties, and/or regional bodies. Informants said that as tribal economies have grown, states, counties, and other organizations have shown more trust and respect for tribes, which, in turn, has facilitated cooperation in BD/ED planning and activities:

- At the county level, the Colville tribe has an Intergovernmental Agreement with Okanogan County for planning/management about land use, shoreline use, and general information sharing. The tribe works with two other adjacent counties as well as the Spokane tribe in a regional EZ/EC program (Five Star) that coordinated over \$27 million in federal, state, local/regional, tribal, and private-sector funds in 2003.

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<sup>2</sup> The grant for Navajo was made to a tribal enterprise, the Navajo Partnership for Housing. The grant for Doyon, Ltd. was made to its parent Native association, Tanana Chiefs Conference.

- Citizen Potawatomi works closely with the state on a road construction project, and with the county and the city of Shawnee on a rural water project funded by the USDA. Tribal officials said that relations with the county are improving and both entities are developing trust.
- Over the past 10 years, Gila River has overcome a history of antagonism and conflict to work increasingly with state, regional, and local governments and organizations, as well as with other tribes. For example, Gila River is working with Ft. McDowell and Salt River Pima-Maricopa tribes on land use planning and with the Arizona Department of Commerce as well as the Greater Phoenix Economic Council for BD/ED planning.
- Navajo Nation has partnered with the Ute Mountain Ute and Hopi tribes in the Four Corners EZ/EC program, which coordinated over \$29 million in federal, state, local/regional, tribal, and private-sector funds in 2003.
- At Three Affiliated Tribes, the Community Economic Development Services Office has a seat on the board of the Sours River Basin Planning Council, has coordinated BD/ED efforts with the city of New Town, North Dakota, and has worked closely with the North Dakota State Economic Development and Finance Administration.
- Both Doyon and BBNC work closely with the State of Alaska on BD/ED initiatives. Doyon has focused on forest management and infrastructure development including transportation, telecommunication, and power generation. BBNC owns 3.1 million acres in the region, and is working with the state to auction leases for natural gas and oil.

## 5. Conclusions and Key Findings

The results of the efforts of tribes and Native corporations to take advantage of federal programs and initiatives to promote BD/ED and to develop their own resources and opportunities have been mixed. While tribes have taken over most of the responsibility for BD/ED planning from the BIA, they are struggling to improve planning processes, management, and outcomes. Two tribes (Gila River and Mississippi Choctaw) have enjoyed significant success, transforming their economies, creating jobs, and dramatically reducing unemployment and poverty on their reservations. The Citizen Potawatomi Nation, in a very different context and environment, has gradually developed a diverse and strong economy, and has achieved one of the lowest unemployment rates (10 percent) in Indian country. Other tribes, often using innovative and aggressive BD/ED planning and operations, have developed new businesses and industries and have created jobs. Nevertheless, some tribes have been less successful in their BD/ED efforts, and the number of jobs and the amount of wealth created continue to be modest compared to the large numbers of unemployed tribal members and the many families that continue to live in poverty.

In taking over responsibility for BD/ED, tribes have confronted five serious challenges: (1) diffusion of responsibility across tribal programs and offices, (2) coordination among these offices and programs as well as coordination with counties and regional organizations, (3) removing legal, administrative, and other barriers to BD/ED on their lands, (4) monitoring and assessing planning progress and outcomes, and (5) obtaining funds needed to sustain long-term BD/ED. A promising approach to the diffusion and coordination challenges developed by some tribes is the creation of a tribal corporation or other entity responsible for overall BD/ED management. In addition, some tribes have found that federal programs and legislation such as PL 102-477 and the USDA EZ/EC program facilitate improved coordination among tribal programs and between tribes and other political entities. The tribes in the study have been working to overcome legal, administrative, and other barriers by developing commercial codes, zoning regulations, and tax policies designed to facilitate development. While most of the tribes/Native corporations in the study monitored the success of individual tribal businesses, few integrated formal monitoring and assessment with their BD/ED efforts. Such monitoring and assessment are needed for continuous improvement of tribal initiatives. Valuable support for tribal BD/ED planning has been provided by the Economic Development Administration (EDA) in the Commerce Department and by the Administration for Native Americans (ANA) in the U.S. Department of Health and Human Services (DHHS). However, funding provided by these and other federal programs is often made on a project-by-project basis for a fixed period of time (e.g., 1-2 years). Tribes with relatively strong economies can supplement federal funding for BD/ED planning. However, tribes most in need of such funding, those with weak economies, often cannot sustain the planning, at least at the needed levels, after federal grant and funding ends.

The achievements of Mississippi Choctaw are especially impressive and can serve as a model for other tribes. The reservation is remote from population centers (although not as remote as most Alaska Native villages or some tribes in the lower 48 states). While the tribe has thriving gaming and hospitality-tourism businesses, much Choctaw BD/ED occurred before the gaming operations started. The success of Choctaw enterprises has allowed the tribe to become self-reliant while making significant economic contributions to the surrounding non-Indian communities. In 2002, the tribe's economic impact on the State of Mississippi exceeded \$1.2 billion. There are 8,900 tribal members, and about 4,000 are in the workforce. The tribe directly employs almost 9,000 people, with a payroll close to \$150 million. There are two full-time jobs available for every tribal member in the workforce. The Gila River economy has also experienced significant growth, fueled primarily by its successful

gaming operations. The tribe is aggressively investing its profits in infrastructure development needed to support other businesses and in new businesses that will diversify their economy.

Despite their high current rates of unemployment (generally above 50 percent), the efforts of the Cheyenne River Sioux, Colville, Navajo, Three Affiliated, and Turtle Mountain Chippewa tribes have been impressive, and they are making progress in their BD/ED efforts. Because some of the federal and tribal programs and initiatives have only recently been implemented, it is not clear how long it may take these tribes to transform their economies and enjoy the success of the Citizen Potawatomi, Gila River, and Mississippi Choctaw tribes.

The situation of the Alaska Native corporations in the study, Doyon and Bristol Bay, is different from that of tribes. The effects of ANCSA, with the creation of the 12 original regional Native corporations, each funded with multimillion-dollar cash settlements for land claims, have been dramatic. Doyon and Bristol Bay have invested prudently, have been able to increase the value of their holdings, and have regularly paid shareholders substantial dividends. Nevertheless, many shareholders in the Native corporations continue to reside in small villages with very few opportunities for salaried employment, often in substandard housing, and depend to some degree on subsistence fishing, hunting, and gathering.

In summary, federal initiatives promoting tribal BD/ED have produced the following results:

- The federal government's ongoing commitment to Indian self-determination, tribal self-governance, and tribal sovereignty has had a positive impact on BD/ED in Indian country. This support has enabled tribes to take over operation of many federally funded programs, increased employment opportunities for tribal members, and enabled many tribal members to obtain experience needed to promote BD/ED.
- There is no single federally sponsored program that works best for all tribes/Native corporations. This is not surprising, given the diversity in the needs and circumstances of the tribes/Native corporations. Among the most valuable programs or initiatives to the tribes/Native corporations in the study were gaming, USDA rural development and EZ/EC programs, and the SBA 8(a) and HUBZone programs.
- While federal programs and initiatives have been key factors in some significant successes and have made valuable contributions to BD/ED throughout Indian country, many Indian tribes and Alaska Native villages continue to experience levels of unemployment that exceed 45 percent and levels of poverty that exceed 36 percent (NCAI 2003). Of the eight tribes and the areas served by the two Alaska Native corporations in the sample, seven reported unemployment rates exceeding 45 percent, the highest being 80 percent (Doyon and Cheyenne River Sioux).
- While it is too early to determine their effects, several federal initiatives that aim to attract investment capital to Indian country have been implemented. These promising initiatives create: (1) the New Markets tax credit and the Indian reservation investment tax credit; (2) tax credits for investors in CDFIs; and (3) the authority for tribes to issue tax-exempt bonds.

The combination of tribal self-governance/self-determination and federal programs that promote tribal enterprise, provide funding, and improve access to capital has created a shift in favor of tribal

BD/ED, a shift that is still somewhat new. Looking back over the past 10 years, tribes in this study tried many approaches in a range of industry sectors. Success has been mixed and has taken time to materialize. Despite the difficult challenges they face, the tribes and Native corporations in this study are aware of the successes that have been achieved, foresee continuing federal support for their efforts, and thus find reason for optimism about their BD/ED efforts.

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**Appendix A:**  
**Primary Federal Initiatives Promoting Business Development/Economic  
Development in Indian Country**

Congress has enacted many laws designed to promote BD/ED in Indian country. In accordance with this legislation, many federal departments and agencies have BD/ED programs and initiatives which often are aimed at supporting BD/ED consistent with Indian self-determination, tribal self-governance, and tribal sovereignty. The table on the following page summarizes the federal BD/ED initiatives thought be most important by the study participants. The table displays the public law that authorizes the BD/ED program, the federal agency that administers the program, the title of the legislation, a description of the legislation/program, the tribes in the study that participate in the program, and the catalogue of federal domestic assistance (CDFA) number of the program, if available (see [www.cdfa.gov](http://www.cdfa.gov)).

**Table A-1. Federal BD/ED Initiatives Most Important to Participating Tribes and Native Corporations**

Authorization	Federal Agency	Title	Description	Affected Tribes in Study	CFDA Number
Public Laws 85-536 and 95-507	SBA	Public Law 95-507, enacted in 1978, amended the Small Business Act of 1958	Section 8(a) of the Act includes provisions that support small businesses owned and controlled by socially and economically disadvantaged individuals so that such concerns can compete on an equal basis in the American economy.	Colville Mississippi Choctaw Cheyenne River Sioux Three Affiliated Tribes BBNC	59,006
Public Law 93-638	DHHS, DOI	Indian Self Determination and Education Assistance Act of 1975 and significant subsequent Amendments: Title 3: Self Governance Demonstration Project of 1988 (P.L. 100-472) (Repealed) Title 4: Tribal Self-Governance Demonstration Act of 1991 (P.L. 102-184 Title 5: Indian Self-Determination Act Amendments of 1994 (P.L. 103-413) Title 5 replacement: Tribal Self-Governance for Indian Health Service Programs (P.L. 106-260)	To provide maximum Indian participation in the government and education of Indian people; to provide for the full participation of Indian tribes in programs and services conducted by the federal government for Indians; to encourage the development of human resources of the Indian people; to support the right of Indian citizens to control their own educational activities.	All 10 tribes/Native corporations in study	
Public Law 92-203	DOI	Alaska Native Claims Settlement Act of 1971	ANCSA extinguished native claims to most of Alaska in exchange for approximately one-ninth of the state's land plus \$962.5 million in compensation. Native land title was conveyed to 12 regional and over 200 local village corporations chartered under Alaska state law. All shareholders of the corporations are required to be Alaska Natives.	BBNC Doyon Ltd.	
Public Law 97-473	Treasury	Indian Tribal Governmental Tax Status Act of 1982	Tribes are treated like states for purposes of the bond rules, but are subject to two restrictions: (1) tribal governments can issue bonds only to finance facilities that serve an "essential governmental function," and (2) tribes cannot issue private activity bonds except for manufacturing facilities operated by the tribal government.	Mississippi Choctaw	
Public Law 105-135	USDA, HUD SBA	The HUBZone Act of 1997 Expanded by P.L. 106-554 to broaden the definition for Indian country to make firms owned by Alaska Native corporations eligible to participate in the HUBZone Program.	Similar to the 8(a) Program, the HUBZone Program provides federal contract preferences to qualified small businesses located in any of the nation's more than 8,000 HUBZone areas in an effort to increase employment, capital investment, and economic development. HUBZones include all lands on federally recognized Native American reservations.	BBNC Cheyenne River Sioux Navajo Nation Mississippi Choctaw Three Affiliated Tribes	10,772 (USDA) 14,244 (HUD)
Public Law 100-497	DOI IGRC	The Indian Gaming Regulatory Act of 1988	This Act is designed to promote tribal economic development, self-sufficiency, and strong tribal governments. It established the jurisdictional framework that governs Indian gaming and serves as the	Cheyenne River Sioux Colville Citizen Potawatomi Gila River	

Authorization	Federal Agency	Title	Description	Affected Tribes in Study	CFDA Number
Public Law 103-66	Treasury	Omnibus Budget Reconciliation Act of 1993	<p>statutory basis for the operation of gaming by Indian tribes. The Act established an independent federal regulatory authority, the National Indian Gaming Commission, to regulate gaming on Indian lands.</p> <p>This Act includes the Indian Employment Tax Credit, which allows businesses to receive a tax credit if they hire Native Americans that live on or near an Indian reservation. For every employee who is Native American, or the spouse of a Native American, the employer is entitled to claim a federal tax credit of 20 percent of the first \$20,000 of wages and medical insurance expense. If the credits are unused, they carry forward for 15 years.</p>	Mississippi Choctaw Three Affiliated Tribes Turtle Mountain	
Public Law 103-354	USDA	U.S. Department of Agriculture Reorganization Act of 1994	<p>This Act replaced the Rural Electrification Administration with the Rural Utilities Service (RUS). RUS administers the electric and telecommunications loan programs and the water and waste disposal loan and grant programs. RUS offers 100 percent guarantees of loans made by the Federal Financing Bank to qualified electric and telecommunications borrowers. The purpose of the program is to provide the infrastructure necessary in rural communities.</p>	Gila River	
Public Law 103-325	Treasury	Community Development Banking and Financial Institutions Act of 1994	<p>This Act created the Community Development Financial Institution (CDFI) Fund to promote economic revitalization and community development by investing in and assisting CDFIs through equity investments, capital grants, loans, and technical assistance support.</p>	Citizen Potawatomi Doyon, Ltd. Navajo Nation	
Public Law 105-34	USDA	Taxpayer Relief Act of 1997	<p>This Act enabled tribes to apply to the Empowerment Zone and Enterprise Community (EZ/EC) program administered by the Department of Agriculture. EZ/EC communities are encouraged to leverage their grant money to secure additional funding for their projects and operations from other sources. EZ/ECs receive special consideration for many federal assistance programs as well as earmarked funds from the USDA Rural Development Program.</p>	Colville Navajo Nation	
Public Law 106-554	Treasury SBA	Community Renewal Tax Relief Act of 2000	<p>This Act created the New Markets Tax Credit Program to encourage investment in low-income communities. This program works in 4 steps: (1) Qualified Community Development Entities (CDEs) can apply to the CDFI Fund for an award of New Markets Tax Credits; (2) the CDE then seeks taxpayers to make Qualifying Equity Investments in the CDE; (3) the CDE</p>	Citizen Potawatomi Navajo Nation	

Authorization	Federal Agency	Title	Description	Affected Tribes in Study	CFDA Number
S.558	Treasury	Indian Reservation Economic Investment Act of 2001	invests these funds in low-income businesses located in low-income communities; (4) the taxpayer in step 2 will be eligible to claim a tax credit equal to 5 percent of its equity investment in the CDE for each of the first three years and a 6 percent credit for each of the next four years (total of 39 percent). This Act amends the Internal Revenue Code of 1986 to provide tax credits for investment in Indian reservation economic development, and for other purposes. The amount of tax credit is based on the level of unemployment on the reservation where an investment is made relative to the unemployment rate of the entire United States.	Navajo Nation Three Affiliated Tribes	
Public Laws 103-66 and 105-34	USDA Office of Community Development	Empowerment Zones and Enterprise Communities Program	Grants are provided to stimulate the creation of new jobs and to promote revitalization of economically distressed areas.	Colville Navajo Nation	10.772
Public Law 104-127	USDA/Rural Business Cooperative Service	Federal Agriculture Improvement and Reform Act of 1996	The goal of this Act is to promote sustainable economic development in rural communities with exceptional needs. Grant funds may be used to plan for business and economic development, training, and technical assistance.	Colville Citizen Potawatomi Gila River Navajo	10.773
	DOI	Forestry on Indian Lands	To maintain, protect, enhance, and develop Indian forest resources through the execution of forest management activities.	Colville Mississippi Choctaw Navajo Nation	15.035
Public Laws 91-229	USDA/Farm Service Agency	Loans to Indian Tribes and Tribal Corporation Act	Direct loans are provided to enable federally recognized tribes and tribal corporations to acquire land within tribal reservations and Alaskan communities. The focus is to eliminate fractional heirships.	Citizen Potawatomi Gila River	10.421
Public Law 105-393, as amended 42 U.S.C 3143	DOC/EDA	Public Works and Economic Development Act of 1965, as amended	Grants are provided to help strengthen economic development planning capabilities, formulate and establish comprehensive economic development, process, and strategies designed to reduce unemployment and increase incomes.	All 10 tribes/Native corporations in study	11.302
Public Law 106-377	HUD/Policy Development & Research	Alaska Native/Native Hawaiian Institutions Assisting Communities	Grants are awarded to help Alaska Native and Native Hawaiian institutions of higher education address community development needs in their localities, including neighborhood revitalization, economic development, and housing.	All 10 tribes/Native corporations in study	14.515
Public Law 93-383	HUD	Indian Community Development Block Grant Program	To provide assistance to Indian tribes and Alaska Native villages in the development of viable Indian communities (including economic development projects)	All 10 tribes/Native corporations in study	14.862
PL 104-330	HUD/ONAP	Native American Housing Assistance and Self Determination Act of 1996	The Act provides federal assistance for Indian tribes in a manner that recognized the right of tribal self-	All 10 tribes/Native corporations in study	

Authorization	Federal Agency	Title	Description	Affected Tribes in Study	CFDA Number
		(NAHASDA)	governance.		
P.L. 93-644 P.L. 100-175 P.L. 100-581 P.L. 102-375	DHHS/ANA	Native American Programs	Grants and direct loans are provided for the development and implementation of social and economic development strategies that promote self-sufficiency.	All 10 tribes/Native corporations in study	93.612
Public Laws 67-85 73-383 93-262 93-638	DOI/BIA	Indian Economic Development	Funds are provided to assist federally recognized tribes to develop resources to improve their economies through administration of credit programs and other economic development assistance activities.	All 10 tribes/Native corporations in study	15.032
Public Laws 93-638 67-85 as amended	USDA	Fish, Wildlife, and Parks Programs on Indian Lands	Funds are provided to promote the conservation, development, and use of natural and recreational resources for sustenance, economic support, cultural enrichment, and maximum benefit of Indians	Colville Navajo Cheyenne River Sioux	15.039
Public Laws 67-85 73-383 93-262 93-638 as amended	DOI	Indian Loans/economic Development	Funds are provided to assist Indians in obtaining financing from private sources to promote business development initiatives on or near federally recognized Indian reservations.	All 10 tribes/Native corporations in study	15.124
Public Law 105-277	DOC	Minority Business Development Administration	Focus is to provide business development services to Native Americans interested in entering, expanding, or improving their efforts in the marketplace.	Colville, Cheyenne River Sioux, Navajo Nation, Three Affiliated Tribes, Turtle Mountain Chippewa	11.801

## **Appendix B. Profiles of the Study Participants**

### **Bristol Bay Native Corporation ([www.BBNC.net](http://www.BBNC.net))**

The largest private landowners in Alaska are the Native corporations formed as a result of ANCSA. The Bristol Bay Native Corporation (BBNC) received \$32,694,953 as its total proportionate share of the monetary entitlement. Class A shares were awarded to Alaska Natives residing in the Bristol Bay region and enrolled in one of the Native villages. Class B shares were awarded to Alaska Natives residing in the Bristol Bay region who were not enrolled in one of the Native villages in the region. The holders of Class B stock are referred to as “at-large” shareholders. As of March 31, 2002, there were 6,153 holders of Class A stock and 676 holders of Class B stock. Among them, 6,082 and 636, respectively, hold voting stock. The outstanding stock of the corporation remains subject to restrictions on alienability (selling their shares to persons outside their immediate family) unless a decision is made by shareholders pursuant to ANCSA to terminate the restrictions.

The Bristol Bay area lies on the Alaska Peninsula. It extends westward to Ivanof Bay and along the northern shore of Bristol Bay. Its regional boundaries extend about 350 miles north to south and about 230 miles east to west, covering about 40,000 square miles, the size of Ohio. The 1990 Census reported 6,972 residents. The Alaska Native population constitutes about 4,639 (66 percent) of these residents. The vast majority of BBNC’s land remains undeveloped, with many Alaska natives depending on a subsistence economy that includes fishing, hunting, gathering, and gardening.

BBNC controls 3 million acres of land. Since it was established in 1972, BBNC has paid out more than \$48 million in dividends and has total assets greater than \$153 million. In fiscal year 2002, BBNC had a net income of \$7.55 million and operating revenues of \$182 million. Annual dividends to shareholders were \$6.00 per share, with a total payout of \$3.25 million.

The Bristol Bay Area is best known to people outside of Alaska as an area rich in salmon. Three of Alaska’s major Native groups—Yup’ik Eskimos, Athabascans, and Aleuts—live in the region. Twelve of the villages have both city and tribal governments, and many have 10 percent or more non-Native residents. BBNC, the for-profit ANCSA corporation, serves 29 Native villages.

Among the successful BBNC enterprises are the Anchorage Hilton Hotel, a major revenue producer; Alaska United Drilling, Inc.; an 8(a) environmental and engineering services corporation; IT services corporation; manufacturing; and construction. Subsistence hunting and fishing are significant contributors to the regional economy. During the salmon season residents catch and process salmon for their own use. Freshwater fish, porcupine, and rabbit are taken year-round. Moose, caribou, ptarmigan, ducks, and geese are hunted in season. Also harvested in the summer are salmon berries, blueberries, blackberries, huckleberries, wild raspberries, and low and high bush cranberries.

BBNC’s mission is to enrich the Native ways of life and to protect the past, present, and future of the Natives of Bristol Bay. Its goals are to double dividends within eight years (by 2005) and to protect Native use of land and wares in Bristol Bay.

## **Cheyenne River Sioux Tribe (CRS) ([www.sioux.org](http://www.sioux.org))**

The Cheyenne River Sioux tribe has five bands: Teton Lakota, Mnicoujou, Siha Sapa, Oohenumpa, and Itazipco. These bands are affiliated with the Teton Sioux/Lakota tribes and speak the Lakota dialect of the Siouan language. These tribes originally inhabited the forests and grasslands of central Minnesota, where they subsisted on hunting and gathering wild rice. Over time (1600s-1700s), the tribes moved onto the plains. As they moved west, they acquired horses from tribes of the southern plains. They bred and traded large pony herds, and hunted buffalo. Subsequently, trappers, settlers, gold miners, and federal troops occupied the tribes' lands and virtually destroyed the buffalo herds.

The Cheyenne River Sioux Reservation was originally part of the Great Sioux Reservation, established by the Fort Laramie Treaty of 1868. This reservation consisted of over 60 million acres, an area that encompassed all of western South Dakota, North Dakota, and eastern Wyoming, as well as parts of Nebraska and Montana. The Sioux Agreement of March 1889 set reservation boundary lines to encompass roughly 2.8 million acres. The Surplus Lands Act of 1908 and 1910 authorized the Secretary of Interior to open 1.6 million acres of the Cheyenne River Sioux Reservation for homesteading and settlement by non-Indians. As a result, the tribe or tribal members own 47 percent of the reservation land. The reservation population is 16,861, of which 14,423 are enrolled tribal members. The reservation is located in north central South Dakota. U.S. Highway 212, a major east-west thoroughfare, and State Routes 65 and 63, north-south roads, pass through the reservation.

Agriculture and livestock are important sectors of the reservation economy. About 28,000 acres of reservation land are farmed either by the tribe or by tribal members. Crops include corn, spring wheat, winter wheat, barley, alfalfa hay, and native hay. About 915,000 acres of rangeland are in use. The tribe maintains a herd of 600 bison, which is managed by the tribal Planning Department. Almost half the tribe's annual income is derived from farming, and there is significant potential for expanding the use of farm and rangeland.

The tribe owns and operates a number of businesses, including the Lakota Thrifty Mart, the Cheyenne River Telephone Authority, Cheyenne River Cable TV, the Cheyenne River Gas Company, the tribal beef herd, and the tribal bison herd. They also operate a supermarket in Eagle Butte, a beef sales pavilion, a gas station, and two laundromats. Businesses under development include a Super 8 Motel, a Class II and III gaming facility, and an industrial park. Manufacturing facilities are anticipated to occupy space at the pending industrial park.

## **Citizen Potawatomi Nation ([www.potawatomi.org](http://www.potawatomi.org))**

Headquartered in Shawnee, Oklahoma, Citizen Potawatomi Nation is the largest of the eight federally recognized Potawatomi tribes and the ninth-largest tribe in the United States, with an enrollment of more than 26,000.

During the 1970s, the tribe made several unsuccessful attempts at enterprise development but incurred no large losses. In 1978, the tribe started a bingo operation, which was under the control of an outside management organization that provided the investment for the construction of the gaming facility. The tribe questioned the honesty of the management company and, after a court struggle that lasted several years, took over control of the facility in 1987. Under tribal management, the facility has been expanded several times and has been a major success for the tribe. During the period that the

gaming facility was under outside management, the tribe received annual payments ranging from \$70,000 to \$150,000. The tribe began utilizing this revenue stream, in part, for the development of new enterprises.

Tribal funds were used to leverage federal grants and loans to launch a series of new enterprises including one of the area's largest grocery stores. Other ventures include an 18-hole golf course, a smoke shop, two convenience store/gas stations, a bowling alley and snack bar, a miniature golf course, a tribal construction company, a day care center, an Internet service company, and an electronic data services company, all established over a 20-year period. The tribe operates a Class II gaming enterprise, with off-track betting, games of skill, and bingo.

In addition, the tribe purchased a local radio station, and when the FDIC took control of the leading local bank, First National Bank of Shawnee, the tribe was able to purchase the bank using its own funds and a \$1.3 million loan from the BIA. The tribe was able to pay off the loan in 33 months—ahead of schedule. The bank now yields an annual profit of \$1 million to the tribe.

The tribe has experienced growth in administration and tribal enterprises, and its community outreach program is one of the largest employers in the county. The tribe operates a health and wellness center, a child development facility that serves over 250 children every day, and an employment and training center.

### **Colville Confederated Tribes ([www.Colvilletribes.com](http://www.Colvilletribes.com))**

Located in the north central part of the state, the Colville Indian reservation is one of the largest in Washington State, with a land base of 1.4 million acres, or 2,100 square miles. Colville lands are diverse, with natural resources such as standing timber, streams, rivers, lakes, and minerals.

The Colville reservation was initially created through executive order in April 1872 and covered close to 3 million acres of land in what was then "Washington Territory." This executive order lumped together 12 tribes that had not been party to a treaty with the United States (Colville, Nespelem, San Poil, Lake, Palus, Wenatchi, Chelan, Entiat, Methow, southern Okanogan, Moses Columbia, and Nez Perce of Chief Joseph's Band). Three months later, another executive order changed the boundaries of the reservation, eliminating a large and highly desirable portion in the initial order. Other bands of Indians were added later and produced a culturally and politically complex reservation of Colville Confederated Tribes (Colville). The vast majority of the present-day reservation remains under collective ownership and includes descendants of the original 12 tribes. The reservation consists of tribally owned lands, land owned by individual tribal members, and land owned by others, described as fee property and taxable by counties rather than the tribes.

There are 8,700 enrolled members, with about 50 percent living on or adjacent to the reservation. The Colville reservation has over 5,000 residents, both Colville tribal members and their families and other non-Colville members, living in small communities.

In 1938, the federal government approved the Colville Reservation's Constitution and By-Laws, which established the Business Council as the governing body of the tribes. Administrative headquarters are in Nespelem. The tribal government employs nearly 1,200 people in permanent, part-

time, and seasonal positions. The work force is composed primarily of Colville tribal members and non-tribal members from the communities where the enterprises are located.

Colville operates on a yearly budget, which is financed primarily from revenues generated from the sale of timber products, casino operations, and goods and services produced by other tribal enterprises. Colville chartered its own corporation, CTEC, which oversees several enterprises, including three casinos. The corporation employs several hundred permanent and part-time employees.

### **Doyon, Ltd. ([www.doyon.com](http://www.doyon.com))**

Doyon, Ltd. is one of the 13 Native regional corporations established by Congress under ANCSA. With a land entitlement of 12.5 million acres, Doyon is the largest private landowner in Alaska and one of the largest in North America. Doyon lands extend from the Brooks Range on the north to the Alaska Range on the south. The Alaska/Canada border is the eastern border and the western portion nearly reaches the Norton Sound.

Voting shares of stock were originally issued to 9,061 Alaska Natives who had a tie to the region. In March 1992, shareholders approved giving stock to Native children born between 1971 and 1992, missed enrollees (Alaska natives not counted in previous censuses), and elders who were age 65 by December 1992. Currently, there are over 14,000 shareholders. Doyon headquarters is in downtown Fairbanks.

Doyon's mission is to continually enhance the financial position of its shareholders in order to promote their economic and social well-being, and to protect and enhance their land and resources. Doyon's core businesses consist of:

1. **Doyon Tourism, Inc.** This is the newest company, formed as part of the corporation's strategic plan to expand its tourism business. The business comprises the Kantishna Roadhouse, Denali River Cabins, and Kantishna Wilderness Trails.
2. **Doyon Drilling, Inc. (DDI).** DDI was formed in 1982 as a joint venture between Doyon, Ltd. and Nugget Alaska, Inc. In 1993, Doyon purchased Nugget Alaska's interest and became the sole owner of DDI. DDI operates on the North Slope of Alaska, with five rigs designed to drill oil wells in northern Alaska conditions. The rigs are some of the most technologically advanced land drilling rigs in the world. Its two primary contractors are BP Exploration (Alaska), Inc. and Arco Alaska, Inc.
3. **Doyon Universal Services (DUS).** Established in 1992, DUS is a joint venture between Doyon, Ltd. and Universal Services Alaska, LLC. The company provides catering, security, facility maintenance, and other remote site support services to oil and gas, construction, and mining facilities throughout Alaska. In the past few years, it has also expanded into the urban market and currently provides services to clients in Anchorage and Fairbanks.
4. **Doyon Properties, Inc (DPI).** Created in December 1997, DPI manages Doyon's commercial properties and provides a full range of real estate activities and services.

5. **Lands and Natural Resources.** Doyon’s mission is to manage its ANCSA lands prudently, focusing on promotion of balanced natural resource development and assurance that title to Doyon lands is secure. Near-term goals include: (1) increased exploration that would generate additional income and job opportunities, (2) reduction of unauthorized uses of Native lands, (3) encouragement of shareholder use of Doyon lands, and (4) continuing efforts to achieve completion of ANCSA and Native allotment land conveyances.
6. **Doyon Foundation.** Created in 1989 to promote the health, education, social, and economic development and well-being of Alaska Natives, the Doyon Foundation provides basic educational grants, scholarships, and internships to help students advance their career paths. The foundation funds a natural resources program, specific professional development workshops, high school career and college fairs, and cultural preservation projects.

### **Gila River Indian Community ([www.gric.nsn.us](http://www.gric.nsn.us))**

The Gila River Indian Community traces its roots to the Hohokum Indians, who lived and farmed along the Gila River Basin in southern Arizona. The Hohokum developed extensive irrigation systems for their crops throughout the Gila and Salt River valleys. The community comprises two tribes—the Pima and Maricopa—and is located in south-central Arizona. The Maricopa Indians first lived along the Colorado River, but moved to the Gila River area before Europeans arrived there.

The 372,000-acre reservation, close to Phoenix, Tempe, and Chandler, Arizona, was established by an act of Congress in 1859. Tribal administrative offices and departments are in Sacaton. The total reservation population is 14,000, of which 11,550 are tribal members.

Since its inception on the reservation, gaming has been highly profitable for the tribe. While the community does not disclose the amount of these profits, it is clear that they have transformed the reservation economy. Investing profits from its three gaming facilities, the community is developing a resort project that will feature two world-class 18-hole golf courses and a 500-room hotel and convention center. Gila River is increasing and diversifying its economy by developing industrial, agricultural, retail, and tourism/recreational businesses. The community operates three industrial parks that are home to several local and national companies. One of them, Lone Butte Industrial Park, has been identified as one of the most successful tribal industrial parks in the country.

Agriculture continues to be an important component of the Gila River economy. The reservation contains 15,000 acres of community farms that support a variety of crops, such as cotton, wheat, millet, alfalfa, barley, melons, pistachios, olives, citrus, and vegetables. Independent farming operations cultivate an additional 22,000 acres of similar crops, bringing the total agricultural product value to more than \$25 million.

### **Mississippi Band of Choctaw ([www.choctaw.org](http://www.choctaw.org))**

The 1830 Treaty of Rabbit Creek called for the removal of the Choctaw from their ancestral homeland in the Carolinas, Mississippi, and Tennessee to Oklahoma Territory. Subsequently, 104,320 acres in Mississippi were awarded to the 5,000 Choctaw who remained on the traditional lands. Fraudulent land sales fueled the checkerboarding of the reservation. Today, 8,400 members live on

29,000 checkerboard acres in seven communities. Using the profits generated by tribal business, the tribe is purchasing reservation land to consolidate and fill in the checkerboard areas within each of the communities. The goal is to simplify jurisdictional and development issues for the tribe and for the state of Mississippi.

The tribe's formula for its economic success is based upon three pillars: (1) a tribal land base under tribal government control, (2) a stable tribal government; and (3) an institutional structure designed to facilitate business decisions. Over the past 15 years, the tribe has followed this model to develop a highly successful reservation economy. Since the 1970s, the tribe has decreased unemployment from over 75 percent to 4 percent; increased per capita income 346 percent; and provided 6,600 jobs (over 3,600 of which are filled by non-Indians in the surrounding communities).<sup>1</sup>

The tribe has a payroll of over \$100 million and manages 12 enterprises that generate over \$300 million in annual sales. The tribe's success has contributed greatly to the economies of surrounding communities and counties and to the state.

Mississippi Choctaw is recognized as having one of the most successful BD/ED programs in Indian country. The tribe's BD/ED success has been achieved despite a location in a region weak in economic resources and distant from urban markets. The tribe owns and operates a diversified portfolio of manufacturing, service, retail, and tourism enterprises in both the United States and Mexico. The tribe is sole owner of 22 business entities and the majority owner of joint ventures in Arizona, Florida, Illinois, Michigan, South Carolina, and Texas.

### **Navajo Nation ([www.navajo.org](http://www.navajo.org))**

Navajo Nation is the largest tribe in the United States, with reservation boundaries extending into Arizona, New Mexico, and Utah. The Navajo reservation is located on 26,109 square miles, or 17.1 million acres, roughly the size of West Virginia. Navajo Nation's land base also includes three Navajo satellite communities—Alamo, Tohajillee, and Ramah—located in western and central New Mexico. The seat of Navajo Nation's government is Window Rock, Arizona.

The tribal government is patterned after the federal government. It is composed of three branches: executive, legislative, and judicial. An 88-member popularly elected council, with 12 standing committees, serves as the legislative body of the Navajo Nation government. The executive branch is headed by a president and vice president, who stand for election every four years. The judiciary branch includes a tribal court system; an appellate court; and informal, traditional peacekeeping courts.

There are more than 230,000 enrolled tribal members. According to the 2000 Census, of the 180,000 residents residing on tribal land, 168,000 are enrolled Navajos, with the remaining being non-members who reside and work within Navajo Nation. Another 80,000 Navajos reside near or within "border towns"—Farmington, Gallup, and Grants, New Mexico; Page, Flagstaff, Winslow, and Holbrook, Arizona; Cortez, Colorado; and Blanding, Utah. The remaining Navajos, enrolled and non-enrolled, reside in metropolitan centers across the United States.

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<sup>1</sup> Testimony of Chief Phillip Martin before the Senate Select Committee on Indian Affairs, March 29, 2000.

According to the 2000/2001 Comprehensive Economic Development Strategy report from the Navajo Nation Division of Economic Development, 56.1 percent of Navajo people live below the poverty level, the per capita income is \$6,217, and the unemployment rate is 43.65 percent. Limited availability of housing and employment on the reservation forces people to commute long distances every day for work, school, health care, and basic government services. Seventy-eight percent of the roads within Navajo are unpaved; weather conditions often make many of those roads impassable.

In December 2002, as part of Navajo Nation's economic development program, an agreement was signed between Trans-Elect Inc. of Reston, Virginia, and the Dine Power Authority for the \$600 million Navajo Transmission Project. The project will develop a 470-mile high-voltage transmission line to link Navajo Nation with major electricity markets in nearby states. Navajo Nation has been a seller of coal to energy development by non-Navajo entities. The power line is part of a larger package for Navajo Nation's economic development program.

### **Three Affiliated Tribes (TAT) ([www.mhanation.com](http://www.mhanation.com))**

The Fort Berthold Reservation, established by the Fort Laramie Treaty of 1851, is home to three tribes: the Mandan, Hidatsa, and Arikara, which once lived along the Missouri River, hunting buffalo and growing various crops. To escape diseases brought by and conflict with European immigrants, the Hidatsa moved up the Missouri River in 1845 and established the village of Like-A-Fishhook. Eventually they were joined there by the other two tribes. After their move to that area, they helped build and eventually settled around a fur trading post for the American Fur Company. Unlike other plains tribes, the Mandan, Hidatsa, and Arikara lived in permanent settlements and developed an economy emphasizing agriculture.

The Fort Berthold reservation is located in west central North Dakota and covers 12,284 square miles in six counties: McLean, Mercer, Dunn, Mountrail, McKenzie, and Ward. The Missouri River traverses the middle of the reservation. The total land area of the reservation is 988,000 acres with 457,837 in tribal and individual Indian ownership. The western and southern areas of the reservation are predominantly rolling prairie grasslands, occasionally broken by buttes. The northern and eastern areas of the reservation are desirable fertile farmland.

In 1947, the federal government took 155,000 acres of the reservation to create the Garrison Reservoir (now called Lake Sakakawea), which divided the reservation into five districts. Communication among the five is difficult, because only one bridge, at the northern end of the reservation, crosses the lake. It can require a 100-mile trip to go from a northern district to a southern one.

The major economic occupation on the Fort Berthold Reservation is cattle ranching and farming for a number of tribal operators. Commercial business by private operators includes convenience stores, gas stations, restaurants, a laundromat, an auto repair shop, a video arcade/fast food shop, arts and handcrafts, and other service and commercial vendors. The major employment on the reservation is provided by the tribal government, Fort Berthold Community College, tribal businesses, the BIA, and IHS.

## **Turtle Mountain Chippewa ([www.turtlemountainchippewa.com](http://www.turtlemountainchippewa.com))**

The Turtle Mountain reservation is located in north central North Dakota about 10 miles south of the Canadian border. The reservation proper occupies 72 square miles. In contrast to most of North Dakota, the reservation consists of low rolling hills, trees, and brush, of which 40 percent is covered with lakes, small ponds, and sloughs. Six thousand acres are used for farming, and the rest is individually owned. The reservation is home for the members of the Pembina Band of Chippewa. Many of the reservation inhabitants are of mixed Chippewa and French ancestry, which are known as Mechif/Metis. Tribal membership is about 25,000.

Tribal enterprises include:

1. The Sky Dancer Hotel and Casino, which offers more than 400 video and reel slots. The hotel has 97 guest rooms, a swimming pool, and the Chippewa Trails Restaurant.
2. The Turtle Mountain Manufacturing Company is a 160,000-square-foot manufacturing entity located within the exterior boundaries of the Turtle Mountain Indian Reservation in Rolette County, North Dakota. Services include machining, metal fabrication, and painting.
3. Uniband, in Belcourt, North Dakota, which provides a broad range of IT services to the federal government and private-sector clients.
4. Dynaband, LLC is a call center formed in 1998 as a joint venture between Uniband and Dynamics Marketing.