



National
Congress of
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Indians



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ASSOCIATION



NACA

Native American Contractors Association

NAFOA



TRIBAL ECONOMIC DEVELOPMENT:

Indian Country's Policy Recommendations for the Federal Government

Introduction: Across Indian Country, tribal nations are forging impressive records of economic progress. From operating nation-owned enterprises to cultivating tribal citizen-owned businesses to preparing their people to access expanding job opportunities through workforce education and training, tribal nations are building sustainable economies to revitalize their communities. Driving this remarkable yet uneven renaissance is tribal self-determination, specifically the responsibility each tribal nation exercises to create a robust economy based on its cultural values, particular circumstances, and long-range priorities. Yet key federal government actions must be taken to foster – and remove the barriers impeding – tribal nations' efforts to create and sustain jobs and economic growth.

Policy Recommendations: Below are top-line policy priorities that will enhance tribal nations' ability to achieve greater economic prosperity and provide their citizens with job opportunities and a good quality of life. These recommendations must lead to rigorous, fruitful dialogue between tribal nations and the Administration and Congress about key actions the federal government should take to support tribal nations' economy building efforts.

TOP-LINE POLICY RECOMMENDATIONS

INFRASTRUCTURE DEVELOPMENT

- Modernize tribal bond treatment to facilitate tribal infrastructure development and the financing of shovel-ready projects.
- Invest direct federal funds to address unmet deferred maintenance needs to provide secure and sustainable water resources (including safe drinking water and sanitation infrastructure), and safe roads and housing infrastructure.
- Directly fund and incentivize the development of Indian Country's telecommunications infrastructure – including 2.5 GHz broadband spectrum – to create new economic development opportunities, streamline tribal government operations, and increase access to quality healthcare, education, and workforce training opportunities.
- Improve infrastructure permitting processes to include tribal nations in planning from the outset to ensure tribal lands, resources, and cultural sites are respected and protected, and that tribal economic development priorities are considered.

TAX REFORM FOR ECONOMIC GROWTH

- Eliminate the harms of dual taxation of tribal commerce on tribal nations' economy building efforts (see NCAI Resolutions [SAC 12-042](#), [SD-15-045](#), [DEN-18-018](#), and [ABQ-19-015](#)).
- Eliminate the "essential government function" test for tribal government tax-exempt bonds, which will: achieve tribal governmental parity for accessing tax-exempt bond markets, enhance job creation in tribal communities, and help to develop private sector economies on tribal lands.
- Make permanent the accelerated depreciation, employment tax, and other Indian Country-related credits; and provide other tax incentives to create certainty for businesses and attract investment in Indian Country.
- To seed investment and jobs in underserved tribal areas, increase the deployment of New Market Tax Credits (NMTC) to tribal communities and ensure that Native Community Development Entities, such as community development financial institutions (or CDFIs), receive an adequate percentage allocation of NMTC credits based on demonstrated need.
- Enact Low-Income Housing Tax Credit (LIHTC) legislation that treats tribal nations as states for the purpose of LIHTC allocation, which would increase deployment of LIHTC credits to tribal communities.

TRIBAL PLANNING AND FEDERAL SUPPORT

- Enact S. 212, the Indian Community Economic Enhancement Act, to increase federal procurement with Native businesses, spur greater investment in tribal business and economic development projects and Native CDFIs, and mandate federal inter-agency coordination to support tribal economic development.
- Appoint a Director (as required by law) to lead the Department of Commerce's Office of Native American Business Development (ONABD), and properly fund ONABD at a minimum of \$2 million per year.
- Enact S. 294, the Native American Business Incubators Program Act, to establish a program within the Department of the Interior (DOI) to allocate \$5 million annually for business incubators to assist with Native business start-ups and expansion.
- Amend the interagency MOA governing the 2017 Indian Employment, Training, and Related Services Consolidation Act to compel its 12 covered agencies to defer to tribal nations/Native organizations' choice of programs to include in 477 Plans.
- Fund American Indian Procurement Technical Assistance Centers up to \$4.5 million through Department of Defense (DOD).
- Exempt tribal nations from the maximum income thresholds under the federal government's Opportunity Zones initiative to maximize its potential to fuel economic growth in tribal communities.

MARKETPLACE COMPETITIVENESS

- Ensure any enacted internet gaming or sports betting legislation specifically recognizes tribal nations' inherent right to opt into a federal regulatory scheme to ensure broad-based access to markets.
- Enact legislation to amend the National Labor Relations Act (NLRA) to restore tribal governmental parity (which existed for over 70 years) with other public sector employers *not* subject to the NLRA regulations governing commercial employers.
- Enable tribal nations to establish Subchapter S Corporations by amending Section 1361 of the federal tax code.
- Preserve the tax immunity of tribally chartered entities, which include diverse structures ranging from corporations to partnerships to limited liability companies.
- Expand Buy Indian Act implementation by requiring the Bureau of Indian Affairs, other DOI agencies, and the Indian Health Service to prioritize Native employment and purchasing from Native vendors.
- Increase other federal contracting opportunities available to tribal nation-owned and tribal citizen-owned businesses.
- Ensure the reauthorized Small Business Act does not include language harmful to tribal nation-/citizen-owned businesses.
- Increase annual funding beyond \$25 million for 5% Indian Incentive Program (IIP) payments to DOD prime contractors that subcontract to eligible Native businesses, so as to reduce the backlog of overdue IIP payments; also, strengthen program administration to more effectively incentivize more contractors to do business with Native contractors and vendors.

ACCESS TO CAPITAL AND CREDIT

- Ratify the proposed [joint final rule](#) modernizing the Community Reinvestment Act, which advances Indian Country's priorities for incentivizing lenders to increase access to capital and credit on tribal lands (for details, click [here](#) and [here](#)).
- Increase credit subsidies for federal loan guarantee programs best suited to leverage greater private sector financing for business, economic, infrastructure, energy and agriculture development (i.e., \$25 million for the DOI Loan Guarantee Program, \$2.5 million for the Department of Energy (DOE) Tribal Energy Loan Guarantee Program, and level funding for Department of Agriculture-Rural Development (USDA-RD) loan and loan guarantee programs).
- Allocate greater percentages of Economic Development Administration, USDA-RD, DOE, SBA, and CDFI Fund funding to Indian Country, with more Native-focused program support for Native CDFIs, including access to bond guarantees.
- Make permanent the waiver for the non-federal match requirement for the CDFI Fund's Native American CDFI Assistance (NACA) program, and fund the NACA program at no less than \$30 million for FY 2021.
- Launch initiative to expand Native CDFIs' participation in SBA's Capital Access Programs.
- Amend the Community Facilities Direct Loan Program re-lending regulations to accommodate Native CDFIs.
- Expand financial education programs for Native people in unbanked/under-banked communities to increase their opportunities to build their financial skills, which are key to asset building, home ownership, and business development.

LAND AND ENERGY DEVELOPMENT

- Continue to restore tribal homelands – which are the lifelines of tribal communities and economies – and address the disparities created by *Carciari v. Salazar* by enacting legislation that: (1) ensures that *all* federally recognized tribal nations can place land into trust; and (2) re-affirms existing trust lands.
- Implement the 2016 Indian Trust Asset Management Reform Act, including appointing a DOI Under Secretary for Indian Affairs, to establish clear lines of authority and ensure accountability for trust reform efforts by DOI divisions.

Contributing Organizations: *These recommendations emerge from a collaborative effort of the following national organizations serving the needs and interests of tribal nations: the National Center for American Indian Enterprise Development, National Congress of American Indians, National Indian Gaming Association, Native American Contractors Association, Native American Finance Officers Association, and Native CDFI Network. For more information about these recommendations, contact NCAI at irecord@ncai.org.*