



THE REPORT OF THE
**NATIVE AMERICAN
LENDING STUDY**

Community Development Financial Institutions Fund

November 2001



ACKNOWLEDGEMENTS

The CDFI Fund is very grateful to all the Tribal leaders, Tribal economic development professionals, Native Hawaiian representatives, representatives of commercial banking organizations, private equity investors, federal government agency officials, financial supervisory agency officials, and Native American entrepreneurs who took the time to participate in the Native American Lending Study Workshops and Roundtable meetings. Their economic development and financing expertise greatly contributed to identifying barriers to accessing capital and possible remedies. In addition, the advice and contribution by the Study's ad hoc advisory group is greatly appreciated.

The CDFI Fund acknowledges and appreciates the professionalism of the Johnson Strategy Group, Inc. for facilitating all the Workshops and Roundtable meetings, and for its contribution to the final report.

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U.S. DEPARTMENT OF THE TREASURY
NOVEMBER 2001

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EXECUTIVE SUMMARY

The Native American Lending Study (the “Study”) ¹ was undertaken by the Community Development Financial Institutions Fund (the “CDFI Fund”), a government corporation within the U.S. Department of Treasury, for the purposes of examining the access to capital and financial services on Indian Lands² and Hawaiian Home Lands³, identifying the barriers to access, and providing options to address these barriers. The mission of the CDFI Fund is to expand the capacity of financial institutions to provide capital, credit and financial services in underserved markets.

THE ISSUE

In the Community Development Banking and Financial Institutions Act (1994)⁴, Congress found that “[m]any of the Nation’s urban, rural and Native American communities face critical social and economic problems arising in part from the lack of economic growth, people living in poverty, and the lack of employment and other economic opportunities.”⁵ Indeed, many communities located in Indian Lands face economic and social challenges that place them significantly behind the rest of the U.S. economy.

Financial Survey respondents and Workshop participants identified a number of historical, economic, and institutional reasons for these conditions. Affirming the Congressional findings with respect to the absence of economic opportunity, many of

¹ The *Native American Lending Study* reports the findings of: (1) 13 Regional Workshops (the “Workshops”), convened by the CDFI Fund from March through December, 1999 – which included over 700 individual participants, of whom: 43 percent were representatives of Tribal governments as herein after defined; 33 percent were representatives of federal, state and non-profit organizations; and 24 percent were representatives of financial institutions; (2) the National Roundtable, convened January 13-14, 2000; (3) the Community Development Financial Institutions Fund Financial Survey (the “Financial Survey”), administered October, 2000 to 1,600 Tribal and financial organizations; and (4) the Equity Investment Roundtable, convened on November 27-28, 2000, and the CDFI Fund Equity Research Investment Report. For a more detailed description of the Study design, see Chapter II.

² “Indian Lands” are defined for the purposes of the Study as lands owned by or under the control of Tribal governments, including reservations, Indian Lands in Oklahoma, and Alaska Native Villages. For purposes of the Study, Alaska Native Villages shall have the definition ascribed by 43 U.S.C. § 1602, *et. seq.*

³ “Hawaiian Home Lands” are defined for the purposes of the Study as trust lands held for the benefit of Native Hawaiian people and are administered by the State of Hawaii’s Department of Hawaiian Home Lands.

⁴ 12 U.S.C §§ 4701, *et seq.* (2000).

⁵ 12 U.S.C. § 4701 (a) (1) (2000).

the Study participants identified one significant factor: a lack of access to capital and financial services in Native American and Native Hawaiian communities.⁶ In fact, the CDFI Fund's research found that there exists a significant difference in the amount of capital investment when comparing the rest of the United States to Indian Lands and Hawaiian Home Lands.⁷

The Financial Survey and supporting research found the following evidence of this historic underinvestment on Indian Lands and Hawaiian Home Lands⁸:

- 65 percent of Native American and Native Hawaiian respondents to the Financial Survey report that conventional mortgages are “difficult” or “impossible” to obtain. Home equity loans and construction and property rehabilitation loans are also in short supply on Indian Lands and Hawaiian Home Lands.
- Business loans were rated as “impossible” to obtain by 24 percent of Native American and Native Hawaiian respondents to the Financial Survey and as “difficult” to obtain by 37 percent. Larger business loans, those over \$100,000, are even more difficult to obtain; 67 percent of said Financial Survey respondents rated them as “difficult” to impossible to obtain.
- 66 percent of Native American and Native Hawaiian respondents to the Financial Survey stated that private equity investments are “difficult” or “impossible” to obtain for Native American and Native Hawaiian business owners.
- The CDFI Fund's Equity Research Report estimates that the investment gap between Native American and Native Hawaiian economies and the United States overall totals \$44 billion⁹.

Accordingly, the major objectives of the Study are to identify the barriers to capital access, credit, and basic financial services on Indian Lands and Hawaiian Home Lands and to develop policy recommendations that address these barriers.

⁶ For the purposes of the Study, the term “Native Hawaiian” is defined as “a person having origins in the original peoples of Hawaii”, see 62 *Fed. Reg.* 58,781 (1997). “Native Hawaiian” is not a term comparable to a federally-recognized American Indian Tribe. Inclusion of Native Hawaiians in the study does not confer or imply any specific, legally enforceable duties on the United States as trustee that apply under certain circumstances when it manages tribal or individual Indian property or resources. In addition, this study does not support or create any right enforceable or cause of action by or against the United States, its agencies, officers or any person. The CDFI Fund's experience with CDFIs and prospective CDFIs in Hawaii has suggested that Native Hawaiians face many of the same issues and barriers as Native Americans and Alaska Natives in their attempts to access loans and investment capital. Accordingly, in 1999, the CDFI Fund proposed to Congress to expand the Study beyond the original Congressional mandate to include Native Hawaiians. The Senate Committee on Indian Affairs encouraged and supported the proposed expansion.

⁷ Based upon research prepared for the CDFI Fund by Complexity Management, Inc., a business, financial, and economic development consultant firm, it is estimated that a given region or country can support equity investment at a particular rate based on the level Gross Domestic Product, and other economic and demographic factors. Based on that calculation, Indian Lands and Hawaiian Home Lands, with their “local GDP” (i.e.- the cost of goods and services purchased and sold), could support equity investment in an amount equal to \$16 billion. However, it is estimated that \$10 billion is currently invested in Indian Lands and Hawaiian Home Lands. Indeed, similar estimates project that Indian Lands and Hawaiian Home Lands could support approximately \$40 billion of equity investment if their demographics and economic conditions more closely reflected those of the rest of the United States as a whole. This Study refers to the difference between investment at the prescribed rate and current investment as the “investment gap” or “equity gap.” See Ch. III for additional discussion.

⁸ See Chapter II for a detailed description of the design of the research and the Financial Surveys. A more detailed discussion of the barriers follows in Chapter III.

⁹ See Chapter II for a detailed description of the design of the equity research. See also, n. 7, above.

STUDY APPROACH

The Study was designed to produce a broad, if not necessarily exhaustive, qualitative review of the state of lending and investment on Indian Lands and Hawaiian Home Lands. This was accomplished largely through input from many of the stakeholders involved in capital access issues on Indian Lands and Hawaiian Home Lands. Simultaneously, the Study has attempted to supplement this review with meaningful quantitative input and analysis. This was accomplished through the Financial Survey, the Equity Investment Research Report, and other CDFI Research¹⁰. Accordingly, the Study approach was designed not only to provide a catalog of economic problems on Indian lands and Hawaiian Home Lands by integrating the concerns and recommendations of those who are attempting to lead their communities into the nation's economic mainstream, but to provide a statistical reporting as well.

To assist in accomplishing this, the CDFI Fund convened 13 regional and two national Workshops involving Tribal¹¹ leaders and economic development professionals, Native American and Native Hawaiian business people, private investors and bankers, federal and state government officials, and other stakeholders. Participants discussed the major barriers to Native American and Native Hawaiian access to capital and developed strategies and actions to overcome those barriers. The Workshops represent an extensive effort to bring together a broad array of stakeholders who each have specific economic development and financing expertise, with experience on Indian and Native Hawaiian lands, to discuss issues related to barriers to capital access and identify possible remedies. Workshop and Equity Investment Roundtable participants offered their diverse range of views and perspectives on accessing capital based on their individual expertise.

The Financial Survey was designed to probe the same set of issues with a broader group of individuals having expertise and experience similar to that of Workshop and Equity Roundtable participants, and who, for the most part were located in or within ten miles of Indian Lands and Native Hawaiian communities. The Financial Survey response rate (33 percent for representatives of FSOs and 25 percent for representatives of Tribal and Native Hawaiian organizations) was lower than expected due to the limited data collection time frame. Nonetheless, the Financial Survey results were consistent with the findings of the Workshops and Equity Roundtable.

The Workshops were complemented by the following research:

- The Financial Survey was administered to Tribal government housing and economic development directors and private financial service organizations (FSOs)¹² located on or near Indian Lands or located in Hawaiian Home Lands to identify the barriers to lending and provide financial services and to help develop recommendations to address those barriers.

¹⁰ A Bibliography detailing the sources for the CDFI Fund research is located on the CDFI Fund website at: www.treas.gov/cdfi/. The Bibliography is not intended to be exhaustive, or to indicate any CDFI Fund or Department of Treasury endorsement of the positions or opinions expressed in the materials listed therein. Rather, the Bibliography provides the reader with a list of the key sources of information that informed the preparation of this Study.

¹¹ In the Study, "Tribal" refers to Native American and Alaska Native governments, except as may be hereinafter specified.

¹² Financial Service Organizations (FSOs) are commercial banks, thrifts, credit unions and other related insured depository institutions.

- A study on equity investment on Indian Lands and Hawaiian Home Lands was conducted to provide the background and recommendations for enhancing equity capital access. This research included discussions with equity market participants, review of the relevant findings from the Financial Survey, and analysis of the findings from the Workshops. In addition, a questionnaire was administered to participants in the Equity Investment Roundtable that provided useful information about equity investment on Indian Lands and Hawaiian Home Lands.

BARRIERS TO CAPITAL ACCESS

The Study identified 17 major barriers to capital access, relating to legal infrastructure, government operations, economic, financial and physical infrastructure, and education and cultural issues.¹³

The Study identified one major barrier to capital access related to legal infrastructure:

1. *Uncertain Tribal Commercial Laws and Regulations and the Absence of an Independent Judiciary.* Investors and financial service providers who participated in Workshops and responded to the Financial Survey were concerned that, in many Tribal governments, Tribal courts may not be sufficiently independent of the executive branch of the Tribal government. Moreover, Workshop participants and Financial Survey participants cited the absence of codified Tribal commercial laws and regulations as causing investors to be hesitant to invest capital on Indian Lands.

Three major capital access barriers were identified that are related to government operations:

1. *Cumbersome, Conflicting, or Ineffective Federal Programs and Regulations.* Study participants noted their experience or perception that the pace of government decision-making is often slow and may involve extensive requirements and paperwork, program requirements often conflict with one another, some programs fail to meet the needs of the Native American and Native Hawaiian communities that they were designed to meet, and some programs have excessively restrictive entry guidelines.
2. *Uncertainty Generated by Changes in Tribal Government Leadership.* As is often true for elected governments, when a new Tribal administration is elected it may eliminate plans for programs begun by the previous administration. Since most Tribal governments do not exercise general taxing authority, many support their operation with revenues derived from their ownership of private businesses. Accordingly, a Tribal government sometimes operates simultaneously as both private sector investor and public sector “regulator” and Tribal business endeavors can at times take on both a public and private character.
3. *Poor Understanding of Tribal Sovereignty and Sovereign Immunity.* Study participants noted that lenders and investors are uncertain about the operation of Tribal and Alaska Native village sovereignty and sovereign immunity and, thus, often perceive greater risk to conduct business on Indian Lands.

¹³ See Chapter III for a description of how the 17 barriers to capital access were identified.

Five major economic barriers to capital access were identified:

1. *Limited Use of Trust Land as Collateral.* Study participants and Fund research revealed that financing home mortgages and business loans presents a major challenge, since most Indian Lands and Hawaiian Home Lands are held in trust by federal or state governments and cannot be sold or encumbered by a mortgage lien, except as authorized by the Secretary of the Interior or other appropriate state official.
2. *Inflexible Bank Lending Rules and Regulations.* In many cases, Study participants noted their experience or perception that underwriting standards of traditional financial institutions do not appear to be structured to account for the particular economic circumstances of Native American and Native Hawaiian people, many of whom might otherwise be creditworthy.
3. *Lack of Capital, Collateral, and/or Credit Histories of Native Americans and Native Hawaiians on Indian Lands and Hawaiian Home Lands.* Fund research suggests that most Native Americans and Native Hawaiians living on Indian Lands or Hawaiian Home Lands do not have access to capital in the form of home equity, stock holdings, or other assets.
4. *Negligible Economic Base on Indian Lands and Hawaiian Home Lands.* Fund research found that, at present, many Native American and Native Hawaiian communities on Indian Lands or Hawaiian Home Lands lack adequate economic bases to meet the needs of their communities.
5. *Lack of Networking of Native-owned Businesses With Equity Investors.* The CDFI Fund Equity Investment Research Report reveals that many of the nation's venture capital investors are concentrated in areas that are physically and even socially remote to Native American and Native Hawaiian entrepreneurs. The equity research and comments of Workshop participants confirm that little investment occurs when potential investors and entrepreneurs live in different states and operate in different social and business circles.

There are two major capital access barriers related to financial and physical infrastructure:

1. *Lack of Financial Institutions on or Near Indian Lands.* A number of Financial Survey and Workshop participants stated that few financial institutions, bank branches, or even ATMs are located on or near (within 30 miles) Indian Lands. The participants posited that the absence of financial institutions impedes the development of bank-community relationships, and drives up borrowing costs.
2. *Lack of Physical and Telecommunications Infrastructure on Indian Lands or Hawaiian Home Lands.* Many areas within Indian Lands lack the physical infrastructure necessary for business development and expansion. A New Mexico State University Study¹⁴ reports, and Study participants confirm, that many households on Indian Lands lack telephones, electricity and/or natural gas and improved roads. Workshop participants reported that similar conditions prevail in Hawaiian Home Lands.

¹⁴ *Assessment of Technology Infrastructure in Native Communities*, College of Engineering of New Mexico State University, 2000, prepared for the Economic Development Administration, U.S. Department of Commerce.

Six major capital access barriers related to education and cultural issues were identified:

1. *Lack of Knowledge or Experience With the Financial World on the Part of Native Americans and Native Hawaiians.* Some Study participants related that in many Native American and Native Hawaiian economies, financial transactions have traditionally been conducted using cash. Thus, according to Study participants, many Native Americans and Native Hawaiians lack experience with and understanding of banking, credit reporting, and loan qualification processes and standards. They may have difficulty obtaining credit, and often lack knowledge and experience in preparing business plans required for bank financing or equity investment.
2. *Lack of Technical Assistance Resources.* The Study identified the lack of technical assistance and training resources, in areas including financial literacy, financial management and entrepreneurship, as a serious barrier to capital access and, throughout the Workshops, participants identified a variety of unmet training needs for Tribal governments and Native American and Native Hawaiian entrepreneurs.
3. *Failure of Lenders and Investors to Understand Tribal Government or Legal Systems.* Study participants noted that lenders and investors have had limited exposure to Tribal government operations, regulations, and enforcement, and thus may be concerned about not being able to collect on their debts or may fear that the process of doing so will be complex and difficult.
4. *Historical Absence of Trust Between Tribes and Banks.* Study participants noted that there has been a historical lack of trust between Native Americans and Native Hawaiians and FSOs. This may cause misunderstandings that lead to failed negotiations for loans, increased costs of doing business for Native Americans and Native Hawaiians, and a reluctance on the part of banks to underwrite loans.
5. *Differences Between Native American and Native Hawaiian Cultures and Banking and Investor Cultures.* The differences between Native American and Native Hawaiian cultures and banking and investor cultures are substantial, according to Study participants. There are, for example, differing views of the concepts of wealth and wealth sharing, profit motive, asset accumulation, credit worthiness, and land ownership.
6. *Discrimination Against and/or Stereotyping of Native American and Native Hawaiian Communities.* Financial Survey respondents and Workshop participants reported that Native Americans and Native Hawaiians suffer from stereotyping and discrimination, with problems ranging from cultural misunderstandings to overt redlining and discriminatory lending practices.

REMEDIES AND RECOMMENDATIONS

Study participants identified a number of potential remedies and recommendations related to the major capital access barriers identified above.

Participants identified one recommendation related to the legal infrastructure barrier cited above.

1. *Enhance the Tribal Legal Infrastructure.* Some Study participants recommended a strategy of creating a more pro-business legal environment on Indian Lands, through such actions as:
 - Establishment of a Tribal legal infrastructure for business development, including Tribal commercial codes, foreclosure regulations, bankruptcy codes, permitting processes, and general regulatory frameworks
 - Development of zoning codes and land use plans
 - Clarification of sovereignty and sovereign immunity, particularly regarding business and housing development

Study participants identified four recommendations related to the three government operations barriers:

1. *Improve Tribal Planning Processes and Structures.* Some Workshop participants felt that Tribal governments need to enhance their ability to establish, articulate and manage a clear and concise vision, to formulate policies and strategic plans for overall economic development, and to cultivate the professional government workforce necessary to implement such plans.
2. *Separate the Goals and Management of Tribal Government From Those of Tribal Business.* Some Workshop participants recommended separating the management of business and government, spinning off Tribally-owned enterprises to a separate bodies for oversight and management, delegating privately-owned enterprise oversight to nonpolitical bodies, and clarifying the differences between Tribal government and corporate liability.
3. *Strengthen Tribal Courts.* Some actions recommended by Study participants include:
 - Further development of independent Tribal courts
 - Provision of training for court personnel on commercial and financial law
 - Increasing the skills and capacity of judges and judicial personnel regarding lender and investor issues
 - Establishment of enforcement procedures for foreclosure, repossession, garnishment, and bankruptcy
4. *Streamline and Improve the Efficiency and Effectiveness of Certain Federal and State Programs Used By Native Americans and Native Hawaiians.* Many Workshop participants expressed the need to accelerate the pace of decision-making, reducing excessive requirements and paperwork, rationalizing conflicting requirements and revising programs with overly restrictive entry guidelines, of certain state and federal programs.

There were four remedies identified that relate to economic barriers:

1. *Create Alternative Collateral Options for Trust Land.* Workshop participants recommended recognizing and leveraging the value of trust assets; facilitating development of trust land through alternative means of valuation and collateralization, such as the creation of leaseholds and master leaseholds; building equity pools from trust lands and other resources; and converting

traditional assets into collateral. Workshop participants also recommended that, for Indian Lands and Native Hawaiian Home Lands, the U.S. Department of the Interior and the Hawaii Department of Hawaiian Home Lands, respectively, examine the feasibility of further streamlining leasing procedures.

2. *Develop New Local and Non-traditional Mechanisms to Deliver Capital on Indian Lands and Hawaiian Home Lands.* Workshop participants suggested that Tribal governments should develop their capacity to orchestrate and leverage all sources of capital, and financial institutions should develop new lending and financing products and revise underwriting criteria to meet the unique needs of Native American and Native Hawaiian markets, including the development of micro-lending programs for small businesses and securitization of oil and gas reserves and timber. Workshop participants proposed two options for providing access to nontraditional sources of debt and equity capital:
 - Develop Tribal or Inter-Tribal CDFIs, community banks, and other lending and investment institutions.
 - Create Tribal or Inter-Tribal pools for loan guarantees, equity investments/venture capital, micro-lending and lending for housing and small business.
3. *Increase Equity Investment on Indian Lands and Hawaiian Home Lands.* Equity Investment Roundtable participants suggested the following methods of increasing equity investment in Native American and Native Hawaiian communities:
 - Create industry sector specific incubators that provide management and technical assistance to start-up businesses and that focus on the specific needs of Native American and Native Hawaiian business owners.
 - Use existing “angel investor” networks (i.e. – networks of investors who provide start-up capital for new business, sometimes accompanied by technical expertise and contacts networks).
 - Build an “angel” network that specializes in investments in Native American-owned or Native Hawaiian-owned businesses.
 - Create community development venture capital (CDVC) funds,
 - Use existing corporate venture capital programs.
 - Use state and city venture capital programs.
 - Form a public/private intermediary to direct funds into Native American and Native Hawaiian CDFIs, businesses, or projects.
4. *Establish a Native American/Native Hawaiian Equity Fund.* To attract equity investments in Native American and Native Hawaiian communities, Workshop participants suggested that the federal government sponsor an equity fund to help encourage private sector investors and public/private partnerships to invest on Indian Lands and Hawaiian Home Lands.

Four recommendations related to the two financial and physical infrastructure barriers cited above, were identified:

1. *Increase the Number of Financial Institutions on or Near Indian Lands.* To provide Native Americans and Native Hawaiians greater access to financial services, a number of policies need to be considered, including:
 - Creating more financial institutions, including CDFIs, on Indian Lands
 - Encouraging existing financial institutions that are not located on Indian Lands to open branches on Indian Lands
2. *Develop Regional Financial Institutions.* The Workshop participants believed that regional partnerships and alliances are essential to overcoming barriers to capital and credit access, and possible strategies include:
 - Building on partnerships established with the CDFI Fund's regional Inter-Tribal cosponsors and holding follow-up forums similar to those conducted in the Study
 - Establishing information clearinghouses at the regional level on model financing approaches, methods of accessing equity capital, and sources of training and technical assistance
 - Providing channels of information to Native American and Native Hawaiian communities so that they can adapt existing models to their unique cultural and community needs
 - Establishing regional partnerships among banks, lending institutions, venture capitalists, federal agencies, and Tribes/Inter-Tribal organizations
3. *Develop Financial Products and Services That Will Meet the Needs of Native American and Native Hawaiian Depositors and Borrowers.* Workshop participants suggested that this could be accomplished by financial institutions through the development of new lending and financing products, revised underwriting criteria more suited to the unique attributes of Native American and Native Hawaiian communities, the creation of micro lending programs for small business, and the creation of CDFIs.
4. *Create Innovative Strategies to Develop Physical Infrastructure on Indian Lands and Hawaiian Home Lands.* Various initiatives were explored at the Workshops to facilitate development of a more adequate infrastructure system on Indian Lands and Hawaiian Home Lands, including creation of partnerships with private developers to plan for infrastructure development and development of an infrastructure investment strategy that utilizes available federal resources and encourages private partnerships to participate in the funding and development process.

Study participants identified four recommendations related to the seven educational and cultural barriers:

1. *Expand Financial Literacy Education Opportunities for Native Americans and Native Hawaiians.* Workshop participants agreed that providing financial literacy education and personal finance education for Native Americans and Native Hawaiians can provide them with the means to participate in the

contemporary economy and that culturally appropriate financial literacy curriculum is available from various sources. Many existing CDFIs regularly provide this type of training in their communities.

2. *Develop Entrepreneurship Programs for Native Americans and Native Hawaiians.* Workshop participants recommended that these programs include:
 - Development of core materials on small business finance and entrepreneurship
 - Establishment of teaching partnerships with Tribal and non-Tribal colleges, financial institutions, CDFIs, and nonprofits
 - Incorporation of web-based training in the curriculum
 - Facilitation of funding and teacher recruitment through the private sector, Tribes, Inter-Tribal organizations, and federal agencies
3. *Conduct Lender and Investor Education.* Actions recommended by the Workshop participants include:
 - Development of informational handbooks on issues such as Tribal government structures, sovereignty and sovereign immunity, and land status
 - Creation of a directory of Tribal credit officers, economic development officers, and department heads and a directory of attorneys qualified to practice in Tribal courts
 - Development of a marketing campaign that illustrates effective practices and success stories, initiation of educational outreach seminars by Native American and Native Hawaiian communities for potential lenders and investors
 - Initiation of “road shows” focusing on investment opportunities on Indian Lands and Hawaiian Home Lands
4. *Expand Technical Assistance and Training.* From the Workshops, several initiatives were identified for increasing technical assistance and training on Indian Lands and Hawaiian Home Lands:
 - Provide Native Americans and Native Hawaiian business owners with technical assistance related to developing business plans and proposals and other business management needs¹⁵.
 - Help Tribal governments develop a comprehensive strategic plan to meet development and financing needs.
 - Assist lenders, investors, and potential business partners in developing an understanding of Tribal laws, Tribal enforcement capabilities, and lender rights.
 - Help lenders, investors, and potential business partners understand federal programs, requirements, and application processes.

¹⁵ In Fall 2001, the CDFI Fund will publish in the [Federal Register](#) a Notice of Funds Availability (NOFA), inviting applications for the initial round of the Native American CDFI Technical Assistance (NACTA) Component of the CDFI Program. The NACTA Component will be supported by the CDFI Fund’s Native American CDFI Training Program. These programs are designed to assist the creation and capacity building of existing and nascent CDFIs and to build financial management capacity on Indian Lands.

EXAMPLES OF INITIATIVES AND PROGRAMS

One of the important aspects of the Study was the identification by participants of programs and initiatives that involve government, the private sector and Tribes to address the major barriers identified above. Each initiative identified below, designed to meet the needs of a particular community, may offer insights to other communities that can be adapted to meet the unique needs of other particular communities or regions.

For example, some Tribes have enacted legislation to promote business development, Tribal commercial codes, land use and planning codes, zoning codes and laws regulating corporate and business activity.¹⁶

Workshop participants noted that lenders and investors are often reluctant to accept the jurisdiction of Tribal courts to enforce financial contracts and, to address this problem, suggested increasing the capacity of Tribal courts to resolve commercial and financial disputes and to enforce commercial codes. Some initiatives are currently underway:

- The Federal Bureau of Justice Assistance, Department of Justice, and Bureau of Indian Affairs¹⁷ are currently funding technical assistance and training grants for Tribal Court capacity building.
- The National American Indian Court Judges Association has established the National Tribal Justice Resource Center¹⁸ to assist Tribes in strengthening methods of self-government and to provide technical assistance for enhancing Tribal justice systems.
- The Tribal Court Clearinghouse¹⁹ has been created as a resource for Tribal court development, training, court review, code drafting, and training.

To provide Native Americans and Native Hawaiians greater access to financial services, Study participants felt that a number of options need to be considered, including creating more financial institutions on Indian Lands and Hawaiian Home Lands, expanding and/or rebuilding existing financial institutions on Indian Lands, purchasing existing banks, expanding Native-ownership of financial institutions through purchase or de novo creation of new institutions, and creating more CDFIs. Workshop participants and CDFI Fund research identified the following examples of successful initiatives:

- The Cheyenne River Sioux Tribe used an existing revolving loan fund to create the non-profit Four Bands Community Fund, which makes business loans.
- In 1990, the Navajo Nation had only three bank branches and one ATM serving a geographic area of 17 million acres. To increase the availability of financial services on the reservation, the Tribe entered into an agreement with Norwest Bank (now Wells Fargo) to build four new branch banks with ATMs, hire and train Navajo personnel, and target financing to business startups and housing development.
- In all, nine Tribally-owned commercial banks, seven credit unions, and 14 loan funds have been developed nationwide to serve Native American communities.
- Hawaiian Community Assets, Inc. is developing a charter for the first Native Hawaiian-owned bank.

¹⁶ For a brief description of some strategies that Tribes have implemented to improve business climates, see Ch. III.

¹⁷ For further information, see www.doi.gov/bia/courts.

¹⁸ For further information, see www.naicja.org.

¹⁹ For further information, see www.tribal-institute.org.

- As of September 30, 2000, the CDFI Fund had made awards totaling nearly \$27 million to 33 CDFIs that provide some level of service to Native American or Native Hawaiian communities.

Workshop participants identified regional partnerships and alliances as essential components to overcoming barriers to capital and credit access, and examples of successful regional initiatives include:

- The Native American Development Corporation is a CDFI that provides Native American business communities in Montana and Wyoming with funds to create jobs, develop long-term economic self-sufficiency, and facilitate access to capital. Its Capital Loan Fund was initially capitalized with funding from banks, the federal government, First Nations Development Institute, and private corporations.
- The Native American Lending Group, Inc. is a nonprofit multi-Tribe CDFI in New Mexico that serves 19 Pueblo communities. It was created to provide Tribes, businesses, and individuals access to private investment capital.
- Coastal Enterprises, Inc. is a nonprofit CDFI that serves low-income communities in Maine and provides financial and technical assistance for development and expansion of certain targeted industries, small businesses, housing, and social services. CEI has established a partnership with the Penobscot Indian Nation to develop a CDFI to fund housing and business development.

Tribal leaders and private investors participating in the Workshops suggested strategies that relied on accessing capital sources that have not traditionally been on the Native American investment “radar screen” and on expanding Native American awareness to include more equity and nontraditional financing and thus increase the likelihood of securing funding. One example of an existing strategy captured significant Workshop participant attention: Center of North America Capital Fund is an “angel” investor network and investment fund in North Dakota that links two Tribes — the Turtle Mountain Band of Chippewa and the Spirit Lake Sioux — with investors. The CONAC Fund was modeled after Minnesota’s Regional Angel Investor Networks Fund, a series of rural investment funds formed by the Minnesota Investment Network Corporation.

The following are examples of public/private intermediaries cited by Workshop participants that direct funds to Native American and Native Hawaiian businesses:

- The Hopi Credit Association is a Tribal credit union that provides a bridge between banks and Tribal borrowers, obtaining funds from banks, handling all loan selection and servicing with Tribal members. Participating banks thus gain a point of entry to the Tribal community, via a Tribal credit union that understands banking needs, and Tribal members are served directly by a credit union that understands their needs.
- Another example is the Southern Ute Growth Fund, which uses a partnership approach and co-invests, using its growth fund and capital provided by outside investors, in a variety of growth opportunities.

The following Chapters One through Four of this Study contain quotes that are attributed to Workshop, Equity Roundtable, and other Study participants. The Fund has not included such quotations to indicate Fund or Treasury Department endorsement of the positions therein expressed, or to represent, necessarily, a prevailing point of view among any particular group of participants. Rather, the Fund has included quotations to add context and background to the report where such additions might help inform the reader’s understanding of the subject.

“...we recognize that we’re the ones that have to go in there and make it happen, and we have to take a pro-active stand to identify who we are, what we stand for, what we want, and to be able to identify the opportunities and position ourselves to take advantage of those opportunities.”

—Curtis Zunigha, *Oklahomans for Indian Opportunity*

INTRODUCTION

MANDATE FOR THE STUDY

In September 1994, Congress mandated that the Community Development Financial Institutions Fund (the CDFI Fund), a wholly-owned government corporation within the Department of the Treasury, conduct a study on lending and investment practices on Indian reservations and other lands held in trust by the United States.²⁰ Congress mandated that the Study:

- Identify barriers to private financing.
- Identify the impact of such barriers on access to capital and to credit for Native Americans²¹ and Native Hawaiians²²
- Develop recommendations for statutory and regulatory changes to existing federal programs.
- Develop policy recommendations for community development financial institutions (CDFIs), insured depository institutions, secondary market institutions, and private-sector capital institutions.
- Submit final report to Congress and the President.

ECONOMIC CONDITIONS ON THE INDIAN LANDS AND HAWAIIAN HOME LANDS

Economic and social conditions on many Indian Lands²³ and Hawaiian Home Lands²⁴ place them significantly behind the mainstream U.S. economy. For example:

- According to U.S. Department of Commerce census data²⁵, unemployment rates on Indian Lands in the continental United States range between 20 percent and 80 percent, and are over 90 percent in some Alaska Native Villages where it is common

²⁰ 12 U.S.C. §§ 4701 *et seq.*

²¹ See footnote 4, Executive Summary for a definition of Native American.

²² See footnote 5, Executive Summary for a definition of Native Hawaiian.

²³ See footnote 2, Executive Summary for a definition of Indian Lands and Alaska Native Villages.

²⁴ See footnote 3, Executive Summary for a definition of Hawaiian Home Lands.

²⁵ U.S. Department of Commerce, *Census 1990*

CHAPTER ONE

“We all know that as we live on the Reservation,...our money goes off each time, every two weeks, we go off to the malls somewhere else. We spend our money. So we’re supporting the jobs in Rapid City, Bismarck, Missoula, Great Falls, and we’re not making jobs of our own.”

—Linda Pease, Native American Development Corporation, Montana

for 90 - 100 percent of the population to depend on subsistence farming or hunting for their livelihood, according to Financial Survey respondents. Average unemployment rates on Indian Lands are about 50 percent, whereas the rate for the United States as a whole is less than five percent.²⁶

- According to U.S. census data, poverty rates in the late 1990s were 26 percent for Native Americans, lower than earlier in the decade, but still far above the national average of 12 percent.²⁷
- Also, U.S. census data estimates that Native American household income is about three-quarters the national household average.²⁸
- Workshop participants report that transportation, telecommunications, energy, financial, and other infrastructures are often substandard and inadequate to support new business formation.
- While it is not clear precisely how many mortgages there are on Indian Lands held in trust, as of 1999, there were 471 home mortgages on Indian Lands, overall²⁹, even though an estimated 38,000 households have sufficient income to qualify for a mortgage³⁰.

In addition, the Financial Survey revealed the following:

- Only 14 percent of Indian Lands located in the continental United States have a financial institution in the community, fewer than half have such an institution anywhere nearby, and 15 percent of Native American people must travel more than 100 miles to reach a bank or automatic teller machine (ATM).
- Although 85 percent of financial institutions on or near Indian Lands located in the continental United States offer deposit accounts to Native Americans residing there, 50 percent of these financial institutions offer primarily two financial services — ATMs and personal consumer loans.
- Conventional home mortgages were rated as “difficult” or “very difficult” to finance by 65 percent Tribal respondents, and 35 percent of FSO respondents. Home equity loans, construction and property rehabilitation loans are also in short supply on Indian Lands and Hawaiian Home Lands.
- Business loans were rated as “impossible” to obtain by 24 percent of Native American and Native Hawaiian respondents and as “difficult” to obtain by 37 percent. Larger business loans, those over \$100,000, are even more difficult to obtain, 67 percent of respondents rated them as difficult to impossible to obtain.
- The percentage of the overall financial service organization (FSO) loan portfolio represented by conventional home mortgages is disproportionately lower on Indian Lands and Hawaiian Home Lands (81.9 percent of the overall portfolio versus 54.3 percent of the portfolio of products offered to Native Americans and Native Hawaiians).

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

²⁹ U.S. Department of Housing and Urban Development, U.S. Department of Treasury, *One Stop Mortgage Center Initiative In Indian Country, A Report to the President*, October 2000.

³⁰ Estimated household income information is based on a study by First Nations Development Institute

- Conventional home mortgages were rated as “difficult” or “very difficult” to finance by 65 percent of Tribal respondents and 35 percent of FSO respondents.
- Only one-third of financial institutions on or near Indian Lands and Hawaiian Home Lands offer state loan or loan guarantee programs to Native Americans and Native Hawaiians residing there.
- 66 percent of Native American and Native Hawaiian respondents stated that private equity investments are “difficult” or “impossible” to obtain for Native American and Native Hawaiian business owners.

Native American economies have about half of the level of equity that comparable international economies (that is, countries or regions with similar GDP, population and other demographic factors) have.³¹ Further, the Equity Investment Research Report’s comparisons of Indian Lands to similar economies suggests that if external equity investors were located in or serving Indian Lands and if the strategies to overcome existing obstacles were pursued and were successful, an additional \$10 billion in equity could be invested in the Native American economy.

What accounts for the equity gap on Indian Lands and Hawaiian Home Lands? The Equity Research and Workshops identified the following causes:

- The perception of unreasonably high risk surrounding private lending on Indian Lands and Hawaiian Home Lands results in little infusion of development capital.
- The underdeveloped nature of Native American and Native Hawaiian economies.
- The difficulty that private investments on Indian Lands and Hawaiian Home Lands have in producing adequate financial returns.
- The inability of Native American and Native Hawaiian communities to attract conventional financing due to trust land status.
- Only seven percent of Native American and Native Hawaiian respondents to the Financial Survey reported obtaining private equity investment with relative ease. Less than one percent reported that private equity was easy to obtain, while 66 percent found obtaining private equity difficult or impossible. Moreover, Workshop participants reported that even profitable and growing businesses in Native American and Native Hawaiian communities have difficulty obtaining even small amounts of equity capital to expand because entrepreneurs do not know how to apply for it and have difficulty locating equity investors.

PROFILE OF THE NATIVE AMERICAN COMMUNITY

There are approximately 2.7 million Native American and Native Hawaiian people living in the United States, of whom approximately half live on Indian Lands or Hawaiian Home Lands.³² This population has grown rapidly since the 1970s, and Native Americans and Native Hawaiians constitute the third fastest growing population

“...often time with Native Americans there’s one product or there’s just one source of loans, and there’s less competition for it...it forces people [Native Americans] who need loans to go to alternative sources, which are often exploitative, often charge a high interest rate...a lot of time the Tribes see that there’s limited lending resources, so they put their own resources into lending. Now, the effect that this has on them is they’re using their money instead of bringing in outside money like other communities.”

*—Ken Goosens,
Seminole Tribe of
Florida*

³¹ For a more comprehensive discussion of the comparison, see Equity Investment Roundtable and Research Report, January 2001.

³² The US Census Bureau estimates that there were 2.45 million American Indians, Eskimos, and Aleuts living in the United States as of October 1, 2000. The Office of Hawaiian Affairs has 250,000 enrolled members who, as of December 2000, declare Native Hawaiian descent.

segment in the nation, after Hispanics and Asians. The nation's 562 federally recognized Tribes and Alaska Native Villages, along with Native Hawaiian communities, are heterogeneous with respect to traditions, cultures, and languages, and about half of the population lives in economically depressed rural communities. There are 334 Indian Tribes³³ in the continental United States and 228 Alaska Native Villages. Tribal populations range from fewer than five members on several acres of land to the Navajo Nation with 250,000 enrolled members and a land base of 17 million acres. Tribal governments vary in size and organization from small elected councils to three-branch governments that include executive and legislative bodies as well as independent court systems.

The federally recognized Tribes in the continental United States and Alaska have been recognized as sovereign entities through peace treaties, Congressional legislation, and U.S. Supreme Court decisions. Congressional legislation — such as the Indian Reorganization Act of 1934³⁴, the Indian Financing Act of 1974³⁵, and the Indian Self-Determination and Educational Act of 1975³⁶ — further established the principle of Tribal self-government. Most Tribes, with the exception of those in Oklahoma, have a land base that comprises trust, allotted, and fee-simple land.

In the early 1970s, Alaska Natives negotiated the transfer of Alaskan land, previously held in trust by the federal government for their benefit. This land was given to Alaska Natives in exchange for the sale of land to the federal government for the Alaska oil pipeline right-of-way. The Alaska Native Settlement and Claims Act of 1971³⁷ divided the state into 12 regions, created a for-profit corporation and a non-profit corporation wholly owned by the Alaska Natives of that region, and transferred ownership of that trust land to the 12 regional for-profit corporations. Some land was also transferred to several dozen village corporations.

Native Hawaiians, who number approximately 250,000, are not members of a separate, federally recognized entity, but do maintain a formal relationship with the State of Hawaii. Native Hawaiians lived under a monarchy until 1893, and 203,000 acres of land were set aside for them under the provisions of the Hawaiian Homes Commission Act of 1920³⁸. At present, this land holding totals 193,935 acres held as state trust land and administered by the Department of Hawaiian Home Lands, a state government agency. In 1970, the state created the Office of Hawaiian Affairs (OHA), both a government agency and a trust, to assist Native Hawaiians. OHA operates economic development, education, health and human services, land, and natural resource programs.

³³ Here we use the terms *Tribe* and *Tribal* interchangeably to refer to Tribal governments and to a given Tribe as a whole — i.e. the Tribal government and the individual members. We use the term *Tribal government* to refer only to the Tribe's government.

³⁴ 25 U.S.C. §§ 461 *et seq.*

³⁵ 25 U.S.C. §§ 1452 *et seq.*

³⁶ 25 U.S.C. §§ 450 *et seq.*

³⁷ See, note 47, *infra*.

³⁸ 48 U.S.C. §§691*et seq.* (omitted as obsolete after admission of Hawaii to the Union).

RESEARCH DESIGN

The CDFI Fund developed the design for the Study to ensure that findings and recommendations were derived from empirical data and research. Also, very importantly, the Study was designed to obtain as much meaningful input as possible from many of the stakeholders involved in the issue of capital access on Indian Lands and Hawaiian Home Lands. Consequently, the Study presents a non-exhaustive quantitative review of the state of lending and equity investment on Indian Lands and Hawaiian Home Lands, together with qualitative information reported by Workshop participants. The Study did not catalogue or review every program or policy (federal, state, local, or otherwise) operative on Indian Lands and Hawaiian Home Lands. Rather, the Study chronicles Financial Survey respondents' and Workshop participants' experiences with particular programs and policies. Specifically, the Study included:

- Thirteen regional Workshops conducted to identify the barriers to lending and investment in Native American and Native Hawaiian communities (the “Workshops”).
- A national roundtable on barriers to lending on Indian Lands and Hawaiian Home Lands (the “National Roundtable”).
- A national Financial Survey of lending practices relating to Native Americans and Native Hawaiians (the “Financial Survey”).
- A national roundtable and a research report on equity investment on Indian Lands and Hawaiian Home Lands (the “Equity Investment Roundtable” and “Equity Investment Report”).

STUDY APPROACH BUILDING BLOCKS



“It has to be a two-way street. The lenders have to learn what we are, just as you expect us to learn how to operate in your world.”

*—Samuel Rock,
White Earth Band of
Chippewa, Minnesota*

“I’m kind of seeing this as the meeting of the minds. I really don’t think that there is a right answer and a wrong answer to all of these issues that are coming together; it’s coming together in knowing how we each think and communicate.”

*—John Lucero,
First National Bank,
Santa Fe*

REGIONAL WORKSHOPS AND NATIONAL ROUNDTABLE

The Study design combined two approaches. First, the CDFI Fund identified and involved experts in the field. Second, to ensure that all the major issues were addressed, to quantify the incidence and severity of access to capital barriers, and to ascertain whether the problems identified were widespread, the CDFI Fund conducted extensive additional research, including the Financial Survey.

The Study design ensured that input from a substantial group involved in the provision of capital access on Indian Lands and Hawaiian Home Lands would be obtained. Tribal³⁹ leaders, Tribal economic development professionals, Native American and Native Hawaiian entrepreneurs, commercial banking organizations and other financial institutions, private equity investors, secondary market organizations, U.S. government officials from financial supervisory agencies and other federal agencies, officials from state agencies, and other financial services and lending experts participated in numerous and detailed discussions.

The 13 regional Workshops were conducted with the assistance of 14 co-sponsors, including: regional Native American organizations, Alaska Native corporations, and Hawaiian state agencies.

Of the approximately 700 Workshop participants, 43 percent represented Native American or Native Hawaiian organizations, 24 percent represented financial institutions, and 33 percent represented federal, state and non-profit organizations.

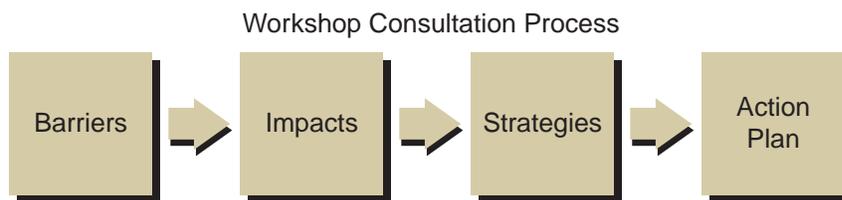
Regional Workshops were held as follows:

- Northwest Region — Seattle, Washington, March 24-25, 1999; cosponsored by the Affiliated Tribes of Northwest Indians Economic Development Corporation, Seattle, Washington
- Southwest Region — Phoenix, Arizona, April 1-2, 1999; cosponsored by the Inter-Tribal Council of Arizona
- Southwest Region — Albuquerque, New Mexico, April 28-29, 1999; cosponsored by the All Indian Pueblo Council
- West Region — Reno/Sparks, Nevada, May 12-13, 1999; cosponsored by the Inter-Tribal Council of Nevada and the California Indian Manpower Consortium, Inc.
- Midwest Region — Oklahoma City, Oklahoma, June 2-3, 1999; cosponsored by the Oklahomans for Indian Opportunity
- Great Lakes Region — Minneapolis, Minnesota, June 29-30, 1999; cosponsored by the Midwest Alliance of Sovereign Tribes
- North Central Region — Rapid City, South Dakota, July 26-27, 1999; cosponsored by the Rapid City Housing Coalition and the Montana- Wyoming Tribal Leaders Council
- Hawaii Region — Honolulu, Hawaii, August 11-12, 1999; cosponsored by the State Department of Hawaiian Home Lands and the State Office of Hawaiian Affairs

³⁹ In the Study, “Tribal” refers to Native American and Alaska Native governments, except as may be hereinafter specified. See n.12

- Hawaii Region — Hilo, Hawaii, August 17-18, 1999; cosponsored by the State Department of Hawaiian Home Lands and the State Office of Hawaiian Affairs
- Alaska Region — Anchorage, Alaska, November 15-16, 1999; cosponsored by Alaska Village Initiatives
- Alaska Region — Fairbanks, Alaska, November 18-19, 1999, cosponsored by the Tanana Chiefs Conference, Inc.
- Northeastern Region-Mystic, Connecticut, December 1-2, 1999; cosponsored by the United South And Eastern Tribes
- Southeastern Region — Tampa, Florida, December 14-15, 1999; cosponsored by the United South and Eastern Tribes

Participants identified and discussed the major barriers to Native Americans' and Native Hawaiians' access to capital, prioritized the significance of those barriers, noted impacts for each barrier, and identified strategies and actions to address such barriers. A report of the proceedings of each Workshop was prepared.



In addition, in January 2000, representatives of Native American and Native Hawaiian communities, along with federal and financial institution representatives, were invited to Washington, D.C. for a roundtable discussion on barriers and strategies. After discussing the issues raised in the regional workshops, participants focused on:

- How to access capital, equity, and investments.
- How to establish effective, mutually beneficial partnerships across stakeholder groups.
- The kinds of messages that should be delivered to the various audiences.
- Plans for implementing the recommendations.
- Success stories that demonstrate how Native American and Native Hawaiian communities have partnered with and/or leveraged public and private sources of capital.

The discussions at this workshop formed the basis for the recommendations contained in this Study.

THE FINANCIAL SURVEY

OBJECTIVES OF THE FINANCIAL SURVEY

Following the National Roundtable, the CDFI Fund developed a nationwide Financial Survey, which was administered to Tribal governments, Native Hawaiian representatives and FSOs familiar with lending on Indian Lands and Hawaiian Home Lands to identify the barriers to capital access and to help develop and recommend strategies to address those barriers. Specifically, the objectives of the Financial

Survey were to: provide quantitative data to complement and enhance the qualitative and anecdotal findings of the Workshops and the National Roundtable; identify the kinds of relationships that exist between FSOs and Native American and Native Hawaiian communities, as well as the mix of financial services available or provided by FSOs to Native American and Native Hawaiian communities; and ensure that the issues addressed are representative of the diversity of both Native American and Native Hawaiian communities and FSOs.

The Financial Survey results were then compared to the results of Workshops and the National Roundtable.

FINANCIAL SURVEY METHODOLOGY

To conduct the Financial Survey, the CDFI Fund engaged three contractors: Deloitte & Touche LLP, an accounting and professional services firm with extensive experience in designing and conducting Financial Surveys, the Metro Chicago Information Center, a non-profit research and consulting firm, and the Johnson Strategy Group, Inc., the firm that conducted the 13 Workshops and the National Roundtable.

This team developed two Financial Survey instruments, one for Tribal governments and one for FSOs. Slightly different versions of each instrument were developed for respondents in Alaska and Hawaii to reflect the appropriate terminology used in those areas.⁴⁰

The Financial Survey was sent to all federally recognized Tribes, including those in Alaska, as well as to non-federally recognized Tribes in Oklahoma and organizations representing Native Hawaiians, including the two Hawaii State agencies with missions relating to the Native Hawaiian community. The final Financial Survey response rates were: for FSOs, 735 Financial Surveys were sent and 245 Financial Surveys were completed, for a response rate of 33 percent; for Tribes and Native Hawaiian representatives, 851 Financial Surveys were sent, and 212 were completed, for a response rate of 25 percent.

THE EQUITY INVESTMENT ROUNDTABLE AND RESEARCH REPORT ON EQUITY INVESTMENT

THE EQUITY INVESTMENT ROUNDTABLE

In November 2000, the CDFI Fund convened a second meeting of Tribal officials, Native American entrepreneurs, private equity players, government agency representatives, and experts on issues related to accessing equity capital in underserved communities. Like the CDFI Fund's 13 Workshops, the goal of Equity Investment Roundtable was to obtain input from individuals who have direct experience in dealing with the barriers of accessing or providing equity investments, and to develop appropriate strategies and actions to address these barriers. Forty-seven people participated in a two-day roundtable discussion, and a proceedings report was prepared.

The Equity Investment Roundtable focused on defining the equity investment landscape and identifying Native American and Native Hawaiian opportunities for "getting on the equity investment radar screen." Structured discussion topics included:

⁴⁰ Appendices A and B of this report contain the Financial Survey instruments.

- The equity investment landscape and “radar screen”, i.e. types of equity investors and their investment criteria
- The equity investment gap on Indian Lands and Hawaiian Home Lands
- Barriers to equity investment on Indian Lands and Hawaiian Home Lands
- Strategies to overcome these barriers and improve access to equity capital
- Action plans and model approaches that can be adapted for use on Indian Lands and Hawaiian Home Lands

THE EQUITY INVESTMENT REPORT

The CDFI Fund also conducted research on equity investment on Indian Lands and Hawaiian Home Lands to provide the background and recommendations for enhancing equity capital access. Primary research included extensive discussions with equity market participants about equity investment on Indian Lands and Hawaiian Home Lands. Other primary research included review of the relevant findings concerning equity investment from the Financial Survey and analysis of the major preliminary findings from the Workshops. In addition, a questionnaire was developed for participants in the Equity Investment Roundtable that provided useful information about equity investment performance and demand for equity on Indian Lands and Hawaiian Home Lands.

The CDFI Fund also conducted research on the level of equity investment on Indian Lands, using mostly census data and Native American-owned business data obtained from the Dun & Bradstreet Minority-Owned Business Database. The CDFI Fund estimated the amount of equity in economies comparable to those on Indian Lands based on census and related information, and data on underdeveloped countries was obtained from various UN, International Monetary Fund, and World Bank, and other sources.⁴¹ The CDFI Fund’s Equity Research analyzed these data, along with information on the effects of various public sector-sponsored, economically targeted, and community development equity investment programs, to estimate the potential benefits of bridging the estimated equity gap. The CDFI Fund supplemented this primary research with a review of over 150 secondary sources.⁴²

In addition, the CDFI Fund studied models being used elsewhere that may have applicability to Native American and Native Hawaiian communities based on published reviews of these efforts, analysts’ knowledge of different programs, interviews with practitioners, and the roundtable discussions. Materials from the Equity Investment Report were also used in the Equity Investment Roundtable to provide a general overview of the equity landscape and to provide structure for the roundtable discussions.

“Indian Country appears to be an ‘equity desert.’ What is needed is irrigation, seeding, weeding, and growth.”

—Equity Investment Research Report

⁴¹ These sources included the International Finance Corporation/ Standard & Poor’s global stock market figures, the Milken Institute Capital Access Index, Heritage Foundation ratings on ease of capital flows, and others.

⁴² These included articles in the general press, books on investment and/or obtaining financing, government publications, testimony, and press releases, academic research articles, practitioner articles and guides, and Tribal and Indian Land publications. A complete list is provided in the Bibliography, available on the CDFI website at: www.treas.gov/cdfi/. Inclusion of materials in the Bibliography, or in this Study, does not indicate CDFI Fund or U.S. Department of Treasury endorsement of the positions or opinions expressed therein. The Bibliography is provided for informational purposes only.

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“You know, probably the scariest thing for a Tribal member and for the bank, too, if you’re sitting across the desk from a banker who really doesn’t understand what the Tribe is all about, and on the other side of the table it’s a Tribal member who really never has been in a position of borrowing money, they don’t know what the financial statement is all about, ...they know what they want to do, but they’ve never been in that position.”

—Pat Strong, Chitimacha Tribe

BARRIERS TO PRIVATE FINANCING AND POTENTIAL REMEDIES

The 13 Workshops resulted in the identification and prioritization of barriers to lending and investment in Native American and Native Hawaiian communities and development of strategies for addressing the barriers. The Workshops provided a forum for the stakeholders who live and work with these issues on a day-to-day basis and, working in teams, participants identified, in the aggregate, hundreds of barriers. They then prioritized the barriers and developed strategies and action plans to address them. The CDFI Fund synthesized the barriers into 17 priority barriers.

The 17 priority barriers were used as the basis for further research, and the results from the Financial Survey permitted a more detailed analysis of the barriers identified by type of respondent. Finally, barriers were reviewed during a National Roundtable and an Equity Investment Roundtable. The priority barriers are grouped into five categories, as follows:

- Legal Infrastructure
- Government Operations
- Economic
- Financial and Physical Infrastructure
- Educational and Cultural

LEGAL INFRASTRUCTURE BARRIERS

Study participants identified one legal infrastructure barrier:

- Inadequate Tribal Commercial Laws and Regulations.

Participants suggested the following recommendation:

- Enhance the Tribal Legal Infrastructure.

IDENTIFICATION OF BARRIER

Inadequate Tribal Commercial Laws and Regulations

Tribal sovereignty generally entails the right to govern, adjudicate disputes, and be immune from suit. In 1975, Congress promoted Tribal self-government by enacting the Indian Self-Determination and Educational Assistance Act⁴³. Since then, Tribal governments have assumed from federal agencies increasing

CHAPTER THREE

⁴³ 25 U.S.C. §§ 450, *et seq.*

responsibility for day-to-day Tribal affairs. Several Workshop participants related that, in their respective experience, when lenders and investors express concerns about sovereign immunity, often they meant that Tribal governments had not developed or clearly defined the legal infrastructure for the enforcement of contracts or other commercial arrangements. Many of the FSO representatives who participated in the Workshops reported their perception that many Tribes lacked clear, predictable guidelines for the operation of Tribal sovereignty comparable to those of the neighboring states and municipal governments.

Fund research found that Tribal commercial codes and Tribal courts are at varying stages of development. Some Tribal governments have fully developed commercial codes and court systems, including trial and appellate courts, while others maintain the Tribal council or executive body as the legal enforcement mechanism. Some Tribes are too small to have their own court system and rely on the courts of neighboring states. Others are in the process of developing commercial laws, regulations, and trial and appellate courts.

Fund Equity Research and Roundtable participants reported that When Tribal commercial laws and regulations are inadequate and ambiguous, uncertainty results for potential lenders and investors. Such uncertainty can increase investors' perceived risks and cost. As a result, investors and lenders are unwilling, without increased compensation in the form of higher rates or other terms, to make investments or extend credit for home mortgages and business loans.

Additionally, some FSOs are concerned that existing Tribal courts may not be sufficiently independent of the executive branch of the Tribal government to offer a secure source of recourse to aggrieved parties from outside the community. Until investors feel confident that they can sue to enforce a contract, and appeal an adverse decision to a higher court, they may be hesitant to invest on Indian Lands.

POTENTIAL REMEDY

Enhance the Tribal Legal Infrastructure

Workshop participants reported that one potential remedy to the barriers presented by Tribal sovereignty would be the development of clearer, more predictable guidelines. In particular, Workshop participants expressed a need to inform potential lenders and investors of the circumstances under which Tribes would waive or invoke their sovereign immunity in the context of commercial transactions. It was noted that following the model of federal and state governments, many Tribal governments have enacted limited waivers of their immunity from suit for commercial development as a matter of standard business practice.

Fund research found that as Tribal economies expand and as their capital needs increase, Tribal governments need to cultivate an environment conducive to entrepreneurship, lending, and investment. A key component of a pro-business environment is a legal infrastructure that supports contract enforcement and facilitates commercial activity in the communities.

Study participants recommended a strategy of creating a more pro-business environment on Indian Lands through such actions as:

- Establishment of Tribal uniform commercial codes, foreclosure regulations, bankruptcy codes, permitting processes, and general regulatory frameworks
- Development of zoning codes and land use plans
- Development of educational programs for lenders and investors on Tribal government, laws, codes, and sovereignty and sovereign immunity

Workshop participants and CDFI research identified the following strategies implemented by various Tribal governments and examples of activities that have helped to create and strengthen those communities' respective legal infrastructures and, in some cases, have improved access to capital:

- The *Tribal Commercial Code (UCC)*: developed by the Navajo Nation, Crow Tribe, Hoopa Valley Tribe, Lummi Indian Nation, Northern Cheyenne Tribe, Cheyenne River, Mille Lacs Band, Rosebud Sioux Tribe, and Standing Rock Sioux.
- The *Tribal Land Use and Planning Code*: developed by the Navajo Nation, Cabazon Band of Mission Indians, and Gila River Indian Community.
- *Tribal Zoning Codes*: developed by the Navajo Nation, Colville, Muckleshoot, and Menominee Tribes.
- *Building Codes*: developed by the Colorado River Standing Rock Sioux and the Navajo Nation.
- *Tribal Corporation Codes* (licensing, incorporation, and contracts): developed by the Navajo Nation, Cherokee Nation (Oklahoma), and the Hoopa Valley Tribe.
- *Tribal Housing Codes*: model codes developed by the HUD Office of Native American Programs.
- The *Model Tribal Code*: developed by the University of Montana-Missoula School of Law and has been adopted by several Tribes.
- Two hundred governance projects specifically for code development have been funded by the Administration for Native Americans, Department of Health and Human Services.

GOVERNMENT OPERATIONS

There is a group of barriers identified by Workshop participants and Financial Survey respondents that point to the role of government (Federal, state and Tribal) in slowing the flow of capital into these communities. The three most significant of those barriers are:

- Cumbersome, conflicting, or ineffective Federal or state programs and regulations
- Inflexible banking regulations
- Uncertainty generated by changes in Tribal government leadership

Participants suggested four recommendations:

- Improve Tribal planning processes and structure

"...most people just flat don't understand how Tribal governments are set up. ...A lot of times, they look at it as 'no-mans-land.' ...The impact of that is that there's a great fear of investment."

—Richard Kontz, Navajo Partnership for Housing

- Separate the goals and management of Tribal government from those of Tribal business
- Strengthen Tribal Courts
- Streamline and improve the efficiency and effectiveness of Federal and state programs for Native Americans and Native Hawaiians

IDENTIFICATION OF BARRIERS

Cumbersome, Conflicting, or Inefficient Federal or State Programs and Regulations⁴⁴

Workshop participants expressed their perceptions of: the slow pace of government decision-making; excessive requirements and paperwork; conflicting requirements of certain programs; programs that fail to address the needs of the community; and programs with overly restrictive entry guidelines. Frustration was especially pronounced because, according to participants, the role of the federal government in developing Native American and Native Hawaiian economies can be critical. Participants noted that federal funding, combined with Tribal resources, has been a major source of capital that often is necessary to leverage private capital. Accordingly, breakdowns or delays in the systems that deliver federal funding stymie the flow of private capital. Some participants related that many federal agencies have made strides in streamlining their applications and review processes with improved coordination and shortened response times, but there remains considerable room for improvement.

Inefficient regulations can discourage lenders and investors from doing business in Native American and Native Hawaiian communities. According to Workshop participants, resultant bureaucratic delays increase investor risk and the costs of doing business, and discourage business development.

Inflexible Bank Lending Rules and Regulations

Many Study participants felt that, in many cases, underwriting standards that financial institutions use in non-Tribal and non-Native Hawaiian communities are inappropriate to evaluate the unique attributes of potential borrowers on Indian Lands or Hawaiian Home Lands. Moreover, many participants felt that most mainstream financial institutions do not offer credit products appropriate for the income and credit histories of non-traditional income earners or for individuals with minimal credit histories. Few resources are available in Native American and Native Hawaiian communities to help people establish or repair their credit rating.

Study participants cited the following examples of Native American and Native Hawaiian economic circumstances that may disadvantage certain borrowers under traditional underwriting standards:

“Traditional loans don’t work in rural Alaska because we don’t qualify. We don’t have a steady income. We have seasonal income or else we’re on welfare.”

*—Fred Bahr,
Noorvik, Alaska*

⁴⁴ This section is based upon the reported experiences with certain programs of Workshop participants and Financial Survey respondents. It does not contain a comprehensive review of all programs purporting to serve Native American or Native Hawaiian communities.

- Seasonal, agricultural, and part-time incomes are common in Native American, Native Hawaiian communities, and especially in Alaska Native Villages.
- Many non-traditional income earners use cash for all of their transactions and consequently have not established credit histories.

Uncertainty Generated by Changes in Tribal Government Leadership

Newly-elected Tribal administrations have the authority, at their discretion, to change and or eliminate the priorities of prior administrations. Because Tribal governments frequently operate private business enterprises to augment the Tribal tax base, these priorities may, or may not, include prior administrations' business arrangements. This represents one kind of possible economic disruption resulting from transitions of Tribal governments, but Tribal ownership of businesses create other uncertainties as well. When Tribal governments maintain a dual role of governance and management oversight of Tribally-owned enterprises, the dual role can become complicated — especially when the two roles are in conflict. In the Workshops, both lenders and Tribal participants expressed concerns that newly elected officials and their administrations may change a previous administration's policies and programs in such a way as to affect private sector business arrangements. The possibility that new administrations would undermine the business arrangements of their predecessors may create uncertainty and, accordingly, risk for lenders and investors as well as for Tribal business people.

According to Workshop participants, uncertainties resulting from changes in Tribal government leadership can imply that Tribal businesses may not operate efficiently because management may emphasize meeting political goals instead of business goals, Tribal entrepreneurs may become frustrated and move their businesses out of Native American and Native Hawaiian communities, and lenders and investors may invest less in Tribal businesses.

POTENTIAL REMEDIES

Improve Tribal Planning Processes and Structure

Workshop participants felt that Tribal governments have the responsibility to establish a clear and concise vision for the community's long-term future, to formulate policies and strategic plans for overall economic development, and to build a well-trained government workforce. They felt that a Tribally-driven, systematic approach to economic development will foster an environment that is more favorable to economic development. A plan will allow Tribal governments to proactively develop their business climate from within, rather than reacting to isolated opportunities from outside the community. Potential business partners and investors will be assured that the Tribe will continue to move in a given direction and that specific future initiatives will be implemented. The Financial Survey revealed that some Tribes have economic development plans, land use plans, and programs encouraging entrepreneurship; however, many of these plans lack crucial components for success.

"...you need to ensure that the policies are in place that bridge the administrations and councils - both banks, Tribes, and Feds - so that as people are constantly revolving and going in and out, the policies will already be in place so you have something to fall back on."

*—Justin Parker,
Administrative Services
Director, Makah Tribe,
Washington*

"The lack of a comprehensive, cohesive plan for development, ... sometimes forces the Indian Nation to, or the government and the people to, place greater reliance on the federal government or the state government."

*—Phil Scott, Chief
Financial Office, Navajo
Nation Division of
Economic Development*

Specifically, participants recommended that Tribal plans should include strategies for economic diversification, a consumer spending assessment, and land use and zoning plans. They should identify businesses the Tribe wishes to target — those that are appropriate for the Tribe and that are consistent with the Tribe’s culture and goals — such as, maximizing economic growth or job creation. In addition, performance evaluation plans containing measures to monitor progress should be included.

Separate the Goals and Management of Tribal Government From Those of Tribal Business

Lenders, investors, and Native American and Native business partners participating in the Workshops recommended that Tribes separate management of Tribal enterprises from the management of Tribal government operations. This would de-politicize business decisions and encourage business management decision making to focus solely on the benefit of the business operation. One strategy suggested by Workshop participants is to spin off Tribally-owned enterprises to a separate body for oversight and management, and delegate privately owned enterprise decision-making authority to a nonpolitical body, thus clarifying the roles between Tribal government activities and Tribally-owned enterprise/corporation business activities. For example, several Tribes have created Tribally-owned enterprises and corporations with separate boards and management. The Navajo Nation and Southern Ute Tribes have created Tribal for-profit oil and gas corporations, the Salt River Pima-Maricopa Community owns and operates a sand and gravel business and a cement company, and the Mississippi Band of Choctaw Indians owns and operates manufacturing plants and construction companies, all with separate governing bodies.

Strengthen Tribal Courts

Tribal courts are an integral part of a legal environment that promotes/facilitates economic development on Indian Lands, but they vary widely in their capacity and breadth of jurisdiction. Some Tribes are too small to have a court system and rely primarily on courts in surrounding jurisdictions and federal courts for enforcement. CDFI Fund research determined that there are approximately 275 formal Tribal courts, including peacemaker, traditional, and formal courts.

Workshop participants noted that lenders and investors are often reluctant to accept the jurisdiction of Tribal courts to enforce financial contracts, although it is unclear whether this reluctance is based on experience with courts or lack of knowledge of them. To address this problem, Workshop participants recommended an increase in the capacity of Tribal courts to resolve commercial and financial disputes and to enforce commercial codes. Recommended actions include the further development of independent Tribal courts, provision of training for court personnel on commercial and financial law, increasing the skills and capacity of judges and judicial personnel regarding lender and investor issues, and establishment of enforcement procedures for foreclosures and repossession, garnishment, and bankruptcy. Some initiatives are currently underway:

- The Bureau of Justice Assistance, U.S. Department of Justice, and BIA are currently funding technical assistance and training grants for Tribal Court capacity building.⁴⁵
- The National American Indian Court Judges Association has established the National Tribal Justice Resource Center to assist Tribes in strengthening methods of self-government and to provide technical assistance for enhancing Tribal justice systems.⁴⁶
- The Tribal Court Clearinghouse has been created as a resource for Tribal court development, training, court review, code drafting, and training.⁴⁷

Streamline and Improve the Efficiency and Effectiveness of Federal and State Programs for Native Americans and Native Hawaiians

Workshop participants acknowledged the important role that state and federal programs play in economic development on Indian Lands and Hawaiian Home Lands. However, Workshop participants also consistently expressed the need to accelerate the pace of government decision-making, reduce excessive requirements and paperwork, rationalize the requirements of different programs that conflict with one another, reform programs that do not meet the needs of the community, and revise programs with overly-restrictive entry guidelines. They stressed that bureaucratic delays and onerous programmatic requirements extend timelines for physical and business development on Indian Lands and Hawaiian Home Lands. Many participants felt that if the federal government and the State of Hawaii could shorten their decision-making processes and ease programmatic requirements, development timelines could be shortened, and the associated risk and cost could be reduced.

Moreover, many Workshop participants felt that streamlining the processes that limit Tribes' abilities to alienate land, so that Tribal governments and individuals can exercise greater control over the assets that benefit them, would help remove barriers to the private sector to finance real estate and business development. As an example, in 2000 Congress passed the Omnibus Indian Advancement Act, Public Law 106-568.⁴⁸ The Act provided the opportunity to establish a streamlined process for the Navajo Nation to lease trust lands without having to obtain the approval of the Secretary of the Interior for individual leases, except leases for exploration, development, or extraction of any mineral resources. The terms of these leases, in the case of business or agricultural leases, would not exceed 25 years, but may include an option to renew for up to an additional 25 years. For residential purposes, the lease could be for a term of 75 years.

⁴⁵ See, note 15, *supra*.

⁴⁶ See, note 16, *supra*.

⁴⁷ See, note 17, *supra*.

⁴⁸ 25 U.S.C. §§ 4101, *et seq.*

ECONOMIC BARRIERS

Workshop participants identified four major barriers that affect the economic capacity of Native American and Native Hawaiian communities:

- Limited use of trust land as collateral
- Lack of capital, collateral, and/or credit histories of Native Americans on Indian Lands and Native Hawaiians
- Negligible economic base on Indian Lands
- Lack of networking of Native-owned businesses with equity investors

Participants suggested four recommendations:

- Create alternative collateral options for trust land
- Develop ways to access debt and equity capital on Indian Lands and Hawaiian Home Lands
- Increase equity investment on Indian Lands and Hawaiian Home Lands
- Establish a Native American and Native Hawaiian equity fund

IDENTIFICATION OF BARRIERS

Limited Use of Trust Land as Collateral

One of the most complex and long-standing barriers identified in the course of the Study is the status of Indian Lands. In the latter part of the eighteenth century, Congress passed the Trade and Intercourse Act⁴⁹, which voided any transfer trust of Tribally-owned land without the approval of the federal government. In 1887, Congress passed the Allotment Act⁵⁰, which provided to individual Native Americans land from both the public domain and from the reservations themselves. Often, reservation land that remained after allotments were issued would be sold in fee status to non-Indians, creating a checkerboard land tenure system and jurisdictional uncertainty. This practice was ended in 1934. At present, land tenure on most reservations is identified as Tribal trust, individual allotment in trust, and fee-simple (which is privately owned land that is transferable and may be encumbered by a mortgage or lien). Historic changes in federal policy, the historical distrust of certain federal policies and programs by Native Americans, and basic cultural differences relating to land ownership have led to the present confusing, hybrid system of land tenure on reservations.

Trust land (tribal or allotted) is held in trust by the federal government for the benefit and use of the Tribe or the allottee and cannot be conveyed by the Tribe or members for such transactions as business leases or mortgages, without the approval of the Secretary of Interior. In Hawaii, the situation is very similar for Hawaiian Home Lands. These lands are held in trust for the benefit of the Native Hawaiian people, who may homestead a parcel of this trust land only with the approval of the State Department of Hawaiian Home Lands.

“...that is the biggest impediment, in our view, as far as banks coming on and lending dollars to Tribes is because of collateral issues. You cannot put the land that is in trust as collateral because if you default, there is no way for the bank to come in and to recoup so they don’t have a loss.”

*—Keller George,
President, United South
and Eastern Tribes, Inc.*

⁴⁹ 25 U.S.C. § 177.

⁵⁰ 25 U.S.C. §§ 331, *et seq.*

According to Workshop participants, slow and inefficient operation of such restrictions can effectively deprive Native Americans and Native Hawaiians of opportunities to use what is potentially the most valuable asset in their communities and thus creates an obvious barrier to the availability of debt financing. This barrier was identified in the Workshops and in the Financial Survey, with 55 percent of the FSOs citing limited use of trust land as collateral as a significant barrier to lending.

Even leasing, an alternative to sale requires approval from the Bureau of Indian Affairs or (in the case of Hawaiian Home Lands) the State of Hawaii. According to Workshop participants, the approval process can often take six months to two years and, even after approval, many mortgage lenders are reluctant to accept a leasehold interest in property as collateral for a mortgage. The result is that most Native Americans and Native Hawaiians either purchase mobile homes, rent apartments, reside with friends or family, wait for public housing, or purchase homes outside their communities.

In Alaska, federal ownership is replaced by regional corporation ownership of land, creating similar difficulties. As in the continental United States and Hawaii, an Alaska Native does not own the land on which his/her home or business may be constructed.⁵¹

According to Workshop participants and Fund research, the limited use of trust land as collateral has the following results:

- As of 1999, there were 471 home mortgages on Indian Lands.
- The out-migration of Indian Lands caused by those seeking home ownership, results in the loss of talent and economic vitality in Native American communities.
- Native Americans and Native Hawaiians often lack home equity to pay for small-business start-ups, consumer loans, and college expenses.

Lack of Capital, Collateral, and/or Credit Histories of Native Americans on Indian Lands and Native Hawaiians

Many Native Americans and Native Hawaiians do not have access to capital in the form of home equity, stock holdings, or other assets and, according to Workshop participants, the result is that:

- Low levels of home-ownership deny Native Americans and Native Hawaiians the most common form of collateral to obtain loans for purchases or small-business startups.
- Individual Native Americans and Native Hawaiians wishing to start a business, purchase a home, or make another large purchase are often not able to qualify for the loans that they need.
- Fund research and Workshop participants suggest that compared to the United States overall, fewer business and consumer loans are granted on Indian Lands and Hawaiian Home Lands.

⁵¹ The Alaska Native Claims Settlement Act of 1971, codified at 43 U.S.C. §§ 1601 *et seq.*, transferred trust land beneficiary status from the Alaska Native Tribes and Villages to 12 regional corporations. See also, *Alaska v. Venetie Tribal Government*, 118 S. Ct. 948 (1998).

Negligible Economic Base on Indian Lands

Another key barrier that Workshop participants identified is the limited economic base in most Native American communities, which is due to a combination of small population, remote location, and the other barriers discussed in this report. According to Workshop participants, the impacts of this barrier are severe:

- Native American communities cannot support the establishment or expansion of local businesses, so that community members are forced to seek work, goods and services off Indian Lands or Hawaiian Home Lands.
- Native American communities experience a “brain drain,” as the most highly skilled members of the community emigrate in search of employment and housing opportunities.
- Private firms, investors, and financial institutions are unable to obtain the scale or volume necessary to support business.
- Community economies are concentrated in one economic sector and are vulnerable to the economic fortunes of that sector.

As a result, according to Workshop participants, Native American economies lack the diversity to withstand economic shocks or even more routine, cyclical movements. Native American communities, accordingly, are more sensitive to downturns in particular sectors.

Lack of Networking of Native-owned Businesses With Equity Investors

The CDFI Fund’s Equity Investment Research Report shows that locations with significant numbers of investors and significant volume of investment activity do not coincide with significant populations of Native American and Native Hawaiian people. Additionally, investors and Native American and Native Hawaiian entrepreneurs often operate in different social/business circles. This separation can inhibit investment in Native American and Native Hawaiian businesses. “Angel” and venture capital investors generally take an active role in the management of the companies in which they invest, and most prefer to invest in companies located in close proximity to them. Areas with the highest number of venture capital offices, such as Silicon Valley in California and Boston, Massachusetts, are not generally the locations with large numbers of Native American and Native Hawaiian firms. In addition, “angel” investors and venture capitalists often obtain investment leads and business plan submissions through a network of trusted sources, generally colleagues that they have worked with or socialized with for years, and Native American and Native Hawaiian business owners and entrepreneurs are not usually members of these referral networks. This geographic and social mismatch between Native American and Native Hawaiian entrepreneurs and investors can impede access to outside investment for many Native American and Native Hawaiian entrepreneurs.

POTENTIAL REMEDIES

Create Alternative Collateral Options for Trust Land

One strategy recommended by Workshop participants is to recognize and leverage the value of trust assets and other commercial or financial assets and to build equity pools from these resources. For example, the Southern Ute Tribe has established a growth fund built on the Tribal mineral estate. This fund has leveraged outside capital and currently provides the basis for Tribal economic self-sufficiency.

Another potential strategy identified by Workshop participants is to facilitate development of trust land and unlock the value of assets through alternative means of valuation and of turning assets into collateral. Alternative collateral options could be utilized, including master leases, and streamlined leasing procedures could be implemented to overcome restrictions on using trust land as collateral. For example, in 2000, Congress passed the Omnibus Indian Advancement Act (P.L.106-568), which established a streamlined process for the Navajo Nation to lease trust lands without having to obtain the approval of the Secretary of the Interior for individual leases.⁵²

Develop Ways to Access Debt and Equity Capital on Indian Lands and Hawaiian Home Lands

There are four potential sources of capital on Indian Lands and Hawaiian Home Lands:

- Tribal financial resources. Tribal respondents to the Financial Survey reported that they use their own resources to fund infrastructure on Indian Lands, Tribally owned businesses, economic development, and home construction and purchases.
- Federal and state government loans and grants. These are primarily used, according to Financial Survey respondents, to finance infrastructure on Indian Lands and Hawaiian Home Lands, economic development, home construction, property redevelopment, and large businesses.
- Debt capital from banks. According to Financial Survey respondents, banks most commonly finance consumer purchases.
- External equity for businesses, investment. According to the Fund's research, external equity investment is the least used form of financing on Indian Lands and Hawaiian Home Lands.

Another recommendation from Workshop participants was to form more FSOs and CDFIs on Indian Lands and Hawaiian Home Lands. Workshop participants felt that locally controlled FSOs and CDFIs could be an important source of investment, loans and financial services that would be crafted to respond to their particular community's needs. A CDFI, in order

⁵² P.L. 106-568 provides modification to existing law concerning the leasing of Navajo Nation trust lands. The Navajo Nation Trust Land Leasing Act of 2000 allows trust land to be leased, subject to Tribal regulations, without the approval of the Secretary of the Interior. The terms of these leases, in the case of business or agricultural leases, cannot exceed 25 years, but may include an option to renew for an additional 25 years. For residential purposes, leases can be for a term of 75 years.

to be certified as such by the CDFI Fund, is required to provide services to support the consumers of its products and to demonstrate that its products and services are targeted to the market that it serves. Several Workshop participants stated that, in many instances, only financial institutions and investors that have some broader stake in Native American and Native Hawaiian communities will undertake the level of activity and investment needed to serve the communities adequately.

Accordingly, Workshop participants recommended that Tribes and Native Hawaiian communities should develop their capacity to orchestrate and leverage all sources of capital, that financial institutions should develop new lending and financing products and revise underwriting criteria to meet the unique needs of Native American and Native Hawaiian communities, and that lending programs of regulated and unregulated entities be developed to finance businesses of all sizes and home ownership, especially on trust land.

Increase Equity Investment on Indian Lands and Hawaiian Home Lands

Equity Investment Roundtable participants noted that having access to new equity investments would provide financing for businesses and allow greater lending to these businesses by allowing them increased ability to leverage their equity. As explained in the Equity Investment Research Report, however, external equity investment, although widely used throughout the U.S. and in countries around the world, has not been widely used on Indian Lands and Hawaiian Home Lands. Equity investment is a critical missing ingredient because equity investments often do not require the types of physical assets as collateral that loans or other types of credit financing require. In particular, equity investment does not require using land as security and accordingly, equity investments overcomes the obstacles presented by impediments to using trust land as security. Equity investments can thus provide money to businesses that do not qualify for loans but are still good investments. Bankers provide liquidity and expansion capability to businesses with cash flow and collateral, whereas equity investors invest in management teams with credible business plans — teams that investors expect will generate returns on their investments.

Many Workshop participants agreed that in order to improve access to equity capital, investors must understand Native American and Native Hawaiian communities and Native Americans and Native Hawaiians must understand how equity markets function — what investors want and why. There are many sources of equity to suit different needs: some companies evolve through one or more of these equity sources as they change and grow, whereas others may only use the type most applicable to them at the time they need it. Tribal

“It seems like the underlying question is: How do you create – carve a channel for capital to flow into Indian Country in terms of equity funding?”

—Glenn Yago, The Milken Institute

“The latest research we did both on the angels [startup equity investors] and the venture capital markets are interesting in the fact that there is plenty of capital out there. What they miss is quality deal flow, putting the emphasis on quality... You will certainly have to develop that pipeline that feeds the systems.”

—Jeffrey Sohl, Professor, University of New Hampshire

leaders and private investors suggested strategies that relied on accessing capital sources that have not traditionally been on the Native American investment “radar screen” and on expanding Native American awareness to include more equity and nontraditional financing and thus increase the chance of securing funding. Exhibit 1 depicts the new tribal-investment “radar screen” and illustrates how participants at the November 28-29, 2000, Equity Investment Roundtable Meeting view future awareness of equity sources.

The New Native American Investment Radar Screen
 (From Perspectives of Participants at the November 28-29, 2000 Equity Investment Roundtable)

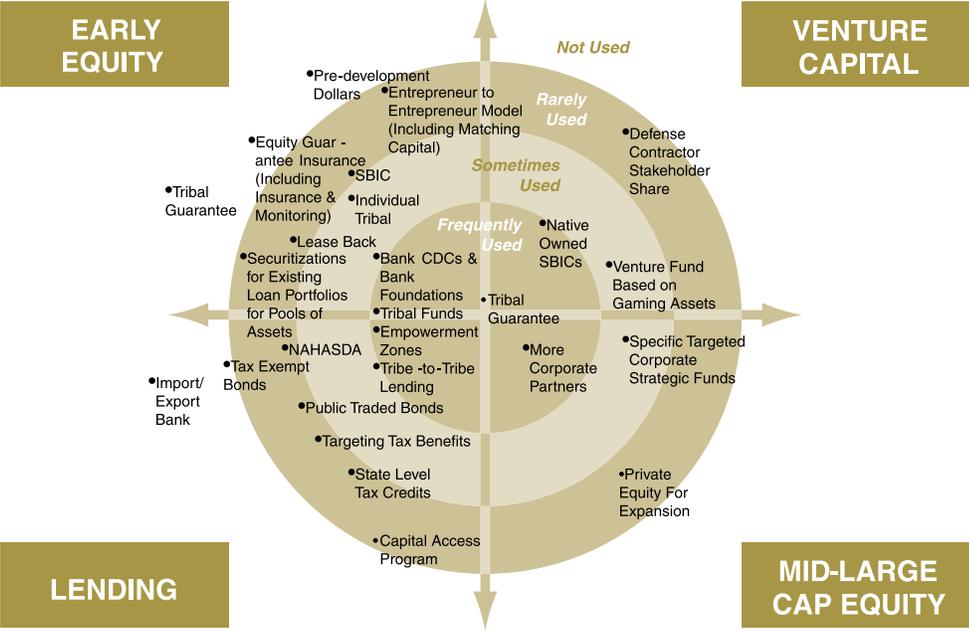


EXHIBIT 1

Exhibit 2 illustrates an equity landscape in terms of types of equity investment versus enterprise stages of business development.

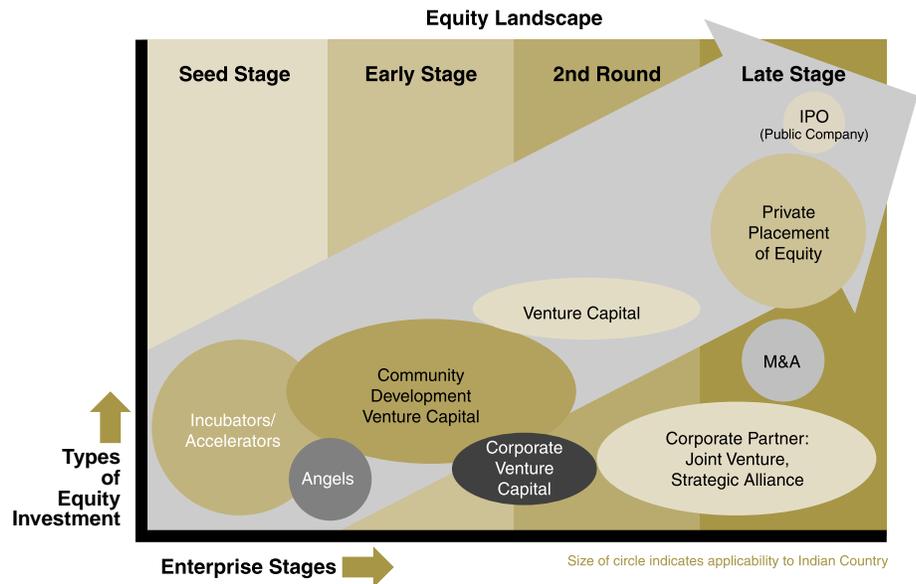


Exhibit 2

Equity Investment Roundtable participants discussed, and the Equity Investment Research Report reviewed, several potential strategies⁵³:

- First, business incubators provide seed capital, physical space, and expert advice on technical and management issues to small businesses and start-ups. Industry or sector-specific incubators can provide full spectrum management and technical assistance on Indian Lands and Hawaiian Home Lands, and thus meet the needs of Native American and Native Hawaiian communities.
- Second, “angel” investors are another source of early money (seed capital) and expert advice. Most angel investors are entrepreneurs who have successfully launched one or more businesses of their own and enjoy helping other entrepreneurs get their businesses started. In addition to money and advice, they contribute time and help with contacts. They are usually very involved in the day-to-day management of the business, and they usually prefer to finance businesses in an industry in which they have experience and in businesses that are in close physical proximity to their headquarters.

Existing angel investor networks could be utilized and, in addition, a Native American and Native Hawaiian angel network could be created. A relevant example is the Center of North America Capital Fund (CONAC), an angel investor network and investment fund that links two Tribes — the Turtle Mountain Band of Chippewa and the Spirit Lake Sioux — with nationwide investors for investment in North Dakota. The CONAC Fund was modeled after Minnesota’s Regional Angel Investor Networks (RAIN) Fund, a series of rural investment funds formed by the Minnesota Investment Network Corporation.

⁵³ For a more complete discussion of the equity strategies discussed here, see *CDFI Fund Native American Lending Study, Equity Investment Roundtable and Research Report*, January 2001, prepared by Complexity Management, Inc. and The Johnson Strategy Group, Inc.

- Third, existing community development venture capital (CDVC) funds can be used and Native-specific ones can be created. CDVC combines venture capital with high levels of technical assistance, similar to what incubators and angels provide. CDVC strives for both financial and social returns. CDVC has been a successful and growing approach to bringing capital to businesses in underserved communities, but is still a small part of the overall equity investment landscape, representing only about 0.03 percent of all private equity available in 2000. Traditional venture capital funds typically raise funds and then liquidate their investments and return money to investors in ten-year increments. Funding such as grants, foundation loans, and official aid does not always require a market rate of financial return. However, while some private sector equity investors are willing to accept less-than-market returns for helping the community, their resources are limited. The social returns sought by CDVCs vary, but are typically characterized by increased minority and women ownership, job creation, diversity in hiring, employment of residents in the targeted disadvantaged communities, quality benefits as part of compensation, and environmental criteria. Sensitivity to the culture of Native American and Native Hawaiian communities can also be built into the investment criteria of these funds.

For example, the Kentucky Highlands Investment Corporation (KHIC) has succeeded in providing training and technical assistance to Appalachian entrepreneurs. The corporation initiates new businesses by helping the entrepreneur create a viable business, management team, and business plan, and thus investing equity in the business.

- Fourth, some corporations have internal venture capital funds. Generally, they invest in businesses that can potentially offer a promising new technology, a complementary product or component of their own product line, or a new or complementary market approach. Corporate venture capital funds may invest in an early stage or an expansion stage of a business.

Becoming a partner with, and receiving equity investments from, corporations outside Native American and Native Hawaiian communities has been used occasionally on Indian Lands, and could be used more widely in the future. Corporate “partnering” offers not only financing, but also management skills, industry expertise, and informal networks to assist small businesses.

- Fifth, state and city venture capital programs can be used. Public sector sponsored funds, fund guarantees, and incentives of various types are proving to be a source of learning and information for investors. Public and private sector partnership approaches, often joint funds with an intermediary, have proven successful. For example, several states, including Massachusetts and Oklahoma, have launched profitable, growing businesses that created jobs and a more diverse economy.
- Finally, public/private intermediaries could be formed to direct equity and loan funds to Native American and Native Hawaiian businesses. For example, the Hopi Credit Association provides a bridge between banks and Tribal borrowers. The credit union obtains funds from banks and handles all loan

“Demand for equity is exactly equal to the number of businesses that you start. If you put it in the vernacular, there ain’t a business that’s going to be started without equity.”

*—Ray Moncrief,
Kentucky Highlands
Investment*

selection and servicing interaction with Native Americans, the banks with a responsible Tribal credit union that understands banking needs, and the Native Americans are comfortable with a credit union that understands their needs. In another case, the Southern Ute Growth Fund uses a partnership approach: the Tribe co-invests, using its growth fund and capital provided by outside investors, in a variety of growth opportunities. This approach initially began with the Tribe's oil and gas business, and then expanded to other ventures.

Establish a Native American and Native Hawaiian Equity Fund

Equity Investment Roundtable participants, noting that an emerging economy can find it difficult to become self-sustaining until adequate levels of private debt and equity capital are available to the businesses in that economy, felt that public funds can play an important role in this process. Since public funds can have the mission of developing a particular region, they can be provided on the basis of greater risk and lower returns than private sector investors may be willing to accept. Historically, the public sector has often played a crucial role in investing in underdeveloped areas, and can help develop a critical mass of investment to encourage the private sector to invest.

To attract equity to Native American and Native Hawaiian communities, one option identified by Workshop participants was for the federal government to play an initial role by sponsoring an equity fund on Indian Lands and Hawaiian Home Lands. According to Workshop participants, this could encourage private sector investors to invest on Indian Lands and Hawaiian Home Lands and could be combined with other incentives, such as guarantees, tax credits, or other risk-reduction measures.

FINANCIAL AND PHYSICAL INFRASTRUCTURE

Workshop participants and Financial Survey respondents identified the lack of financial and physical infrastructure as a significant barrier to investment in Native American and Native Hawaiian communities. These issues will be discussed in the following barrier sections:

“Without necessary infrastructure to build an economy, why would a banking industry want to lend money? It wants money returned. But for money to return, it has to have a sustained economy... But to have a sustained economy, you need necessary infrastructure.”

—Brian Henry, Alaska Village Initiatives

- Lack of financial institutions on or near Indian Lands or Native Hawaiian communities
- Lack of physical and telecommunications infrastructure on Indian Lands or Hawaiian Home Lands

Participants and respondents suggested the following four potential recommendations:

- Increase the number of financial institutions on or near Indian Lands and Hawaiian Home Lands
- Develop regional financial institutions
- Develop financial products and services that will meet the needs of Native American and Native Hawaiian depositors and borrowers
- Create innovative strategies to develop Indian Lands and Hawaiian Home Lands infrastructure

IDENTIFICATION OF BARRIERS

Lack of Financial Institutions on or Near Indian Lands or Native Hawaiian Communities

The Financial Survey identified the lack of financial institutions based in Indian Land and Hawaiian Home Land as a serious problem and noted that, unlike non-Native American or non-Native Hawaiian communities, Indian Lands and Hawaiian Home Lands are not generally served by a variety of financial institutions. In the Financial Survey, 33 percent of Tribal respondents indicated that they had to travel at least 30 miles to reach an ATM or a bank branch, and many Native Americans and Native Hawaiians have difficulty in accessing any form of banking service. This lack of basic financial services has implications for financial literacy, capacity building, and banker-customer communication. It exacerbates the capital access gap and increases the difficulty of starting new businesses and acquiring home mortgages. The Financial Survey also found that:

- Only 14 percent of communities on Indian Lands have a financial institution in their community.
- Approximately half of these communities have a financial institution nearby, and only about half have an easily accessible ATM.
- Six percent of the residents of Indian Lands must travel more than 100 miles to reach the nearest bank or ATM.

Native American Workshop participants noted that in many of their communities that lack financial institutions, individuals needing credit must often rely on sub-prime lenders who charge high fees for their services. In addition, the absence of financial service providers reinforces the cash and barter system of trade and contributes to Native Americans' and Native Hawaiians' unfamiliarity with financial institutions and the contemporary financial services culture. According to CDFI research and Workshop participants, the impact of this lack of financial institutions on Indian Lands and Hawaiian Home Lands is substantial:

- Native Americans and Native Hawaiians' access to even basic banking services is limited, and they must leave Tribal lands to obtain these services.
- Financial services are costly for Native Americans and Native Hawaiians.
- Native Americans and Native Hawaiians have limited opportunity to acquire financial expertise or the capacity and experience to manage community-based financial institutions.
- Many Native Americans and Native Hawaiians have either no credit history or a poor credit history that prevents them from qualifying for loans.

Lack of Physical and Telecommunications Infrastructure on Indian Lands or Hawaiian Home Lands

According to Workshop participants, there is serious lack of physical and telecommunications infrastructure⁵⁴ on Indian Lands and Hawaiian Home Lands. Several Workshop participants and, in particular, investors who

⁵⁴ For purposes of this report, physical infrastructure is defined as water, sewer, and electrical lines and roads; telecommunications infrastructure is defined as telephone, cable, and fiber optic lines.

participated in the Equity Investment Roundtable cited this absence of developed infrastructure as a significant impediment to attracting investment to Indian Lands. Further, participants reported that undeveloped infrastructure significantly increased the costs associated with business development on Indian Lands:

- Only 47 percent of households on Indian Lands have telephones, compared to 94 percent for non-Native rural communities in the United States.⁵⁵
- Twenty-six percent of Tribes report that they do not have 911 police/fire emergency services.⁵⁶
- In rural areas (with populations of 2,500 or fewer), 12 percent of Native American households lack electricity and 23 percent do not have access to natural gas.⁵⁷
- Only nine percent of rural Native American households have personal computers and, of these, only eight percent have Internet access.⁵⁸
- There is significant unmet need for road and bridge improvements on Indian Lands and Hawaiian Home Lands.⁵⁹
- More than 66 percent of the Indian Reservation Roads (IRR) system consists of unimproved earth and gravel surfaces that wash out in severe weather, and 26 percent of IRR bridges are deficient. The annual fatality rate on these roads is more than four times the national average.⁶⁰

Workshop participants expressed concern about infrastructure, and a recent study by the New Mexico State University also found that Tribes identified infrastructure development as one of their top priorities.⁶¹ The NMSU Study of infrastructure needs on Indian Lands in the lower 48 states and Alaska found that “Tribes overwhelmingly identified their top investment priorities as housing, roads, wastewater technology, and medical facilities.”⁶²

Moreover, the NMSU Study reports that due to this inferior physical and telecommunications infrastructure:

- The cost of economic development is increased and private commercial development is decreased.
- Business startups face prohibitive costs, and economic activity on Indian Lands is limited to a large degree to service industries.

⁵⁵ “Fact Sheet Promoting Deployment/Subscribership in Underserved Areas, Including Tribal and Insular Areas”, Federal Communications Commission, June 8, 2000.

⁵⁶ *Assessment of Technology Infrastructure in Native Communities*, New Mexico State University, 2000.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

⁵⁹ Senator Ben Nighthorse Campbell, “Amending the Indian Reservation Roads Program,” *Senate Report 106-406*, September 11, 2000, p. 3.

⁶⁰ *Ibid.*

⁶¹ *Assessment of Technology Infrastructure in Native Communities*, op. cit.

⁶² *Ibid.*

- The Native American economies are not self-sustaining and create relatively few jobs.
- Internet access is more expensive and more difficult to obtain in Native American communities.

POTENTIAL REMEDIES

Increase the Number of Financial Institutions on or Near Indian Lands and Hawaiian Home Lands

Workshop participants noted that different approaches have been used to address the lack of access to financial services. A few Tribes have formed agreements with banks to build branch banks on their land, some Tribes and Native American non-profits have started revolving loan funds (some are CDFIs), and some Tribal governments have instituted government-run revolving loan funds.

Workshop participants strongly felt that the creation of community based financial institutions in Native American and Native Hawaiian communities should be given high priority, and CDFIs were identified as a crucial and underutilized resource. Since, no single financial institution model can address the needs of all Native American and Native Hawaiian communities, establishing and expanding CDFIs on Indian Lands and Hawaiian Home Lands offers important advantages for they can provide lending and investment funds that employ people from the community. In addition, CDFIs provide opportunities for to develop partnership programs among Tribes, other financial institutions, equity investors, and federal agencies.

Another strategy is the expansion of existing financial institutions to Indian Lands and Hawaiian Home Lands, and purchasing existing banks. There are examples of successful initiatives cited by Workshop participants:

- The Cheyenne River Sioux Tribe used an existing revolving loan fund to create the non-profit Four Bands Community Fund, a CDFI that provides loans to businesses.
- In 1990, the Navajo Nation had only three bank branches and one ATM serving a geographic area of 17 million acres. To increase the availability of financial services on the reservation, the Tribe entered into an agreement with Norwest Bank (now Wells Fargo) to build four new branch banks, hire and train Navajo personnel, and target financing to business startups and housing development.
- In all, nine Tribally-owned commercial banks, seven credit unions, and 14 loan funds have been developed nationwide to serve Native American and Native Hawaiian communities.
- Hawaiian Community Assets, Inc. is developing a charter for the first Native Hawaiian-owned bank.
- As of September 30, 2000, the CDFI Fund had certified 34 CDFIs that serve Native American or Native Hawaiian communities.

“...this is the first time I’ve met some of the credit officers from Tribal credit enterprises here, and it’s really exciting to see them here, but I think they’re all set up separately and I think an association might be real helpful for training, for collaboration, for working with other banks, for partnerships.”

*—Dave Tovey,
Confederated Tribes of
the Umatilla Indian
Reservation, Oregon*

Develop Regional Financial Institutions

Workshop participants stated their belief that regional partnerships and alliances are essential to overcoming barriers to capital and credit access,

The regional focus is important because, according to Workshop participants:

- Tribes and Tribal organizations can coordinate with federal agency financial assistance providers at the regional level for initiatives such as Small Business Investment Companies (SBICs) or CDFIs.
- Regional partnerships and alliances can address economies of scale for small or newly recognized Tribes that do not have the necessary legal, economic, and physical infrastructure necessary to support financial institutions.

Possible strategies identified by Workshop participants include building partnerships established through the Workshop cosponsors⁶³ and other Inter-Tribal organizations; establishing regional information clearinghouses for information on model financing approaches, accessing equity capital, and sources of training and technical assistance; and providing channels of information to Tribal communities so that they can adapt model approaches unique to their cultural settings; and holding follow-up forums similar to those conducted in this Study.

Another approach is to establish regional partnerships among banks, lending institutions, venture capitalists, federal agencies, and Tribes/Inter-Tribal organizations to:

- Conduct regional forums to assist Tribal businesses in identifying types and sources of financing that best serve a given enterprise.
- Create financing intermediaries that provide regional and local assistance to Tribes and Tribal entrepreneurs.
- Develop technical and underwriting standards at the regional level that can be adapted to varying Tribal business environments.

Examples of successful regional initiatives cited by Workshop participants include:

- The Native American Development Corporation is a nonprofit CDFI that provides Native American business communities in Montana and Wyoming with funds to create jobs, develop long-term economic self-sufficiency, and facilitate access to capital. Its Capital Loan Fund was initially capitalized with funding from banks, the federal government, First Nations Development Institute, and private corporations.
- The Native American Lending Group, Inc. is a nonprofit multi-Tribe CDFI in New Mexico that serves 19 Pueblo communities. It was created to provide Tribes, Native American businesses, and individuals access to private investment capital.

⁶³ See Chapter II, pages 18-19, for the list of the 14 cosponsors.

- Coastal Enterprises, Inc. is a nonprofit CDFI serving low-income communities in Maine, provides financial and technical assistance for development and expansion of industries, small businesses, housing, and social services. CEI has partnered with the Penobscot Indian Nation to develop a CDFI to fund housing and business development.

Develop Financial Products and Services That Will Meet the Needs of Native American and Native Hawaiian Depositors and Borrowers

Many Workshop participants expressed the opinion that, in order to bridge the divide between lenders and Native American communities, FSOs should develop products and services that will address the economic attributes of Native American or Native Hawaiian markets. For example, many participants suggested that FSOs develop underwriting standards that can evaluate potential borrowers who are employed seasonally, or who have lived in mostly cash economies. In addition, Workshop participants believed that there would be more creditworthy borrowers in Native American communities if FSOs provided more educational and outreach services.

Create Innovative Strategies to Develop Indian Lands and Hawaiian Home Lands Infrastructure

According to Workshop participants, infrastructure must be in place if Native American and Native Hawaiian economies are to develop and create jobs, and that, absent commercial grade infrastructure, projects proposed for financing are frequently rejected by lenders. Various ideas were explored at the Workshops to facilitate development of an infrastructure system capable of supporting commercial and industrial needs on Indian Lands and Hawaiian Home Lands:

- Conduct a commercial and industrial infrastructure assessment to determine infrastructure needs throughout Native American and Native Hawaiian communities.
- Create partnerships between Tribal governments and private developers to plan for comprehensive infrastructure development, including information technology needs.
- Ensure that a federal infrastructure investment strategy best utilizes available federal resources and encourages private partnerships to participate in the funding and development process.
- Assess the feasibility of creating an entity similar to the Rural Community Assistance Project (RCAP) that would focus on infrastructure development in rural Native American and Native Hawaiian communities.

Workshop participants noted that the federal government has already begun to address some of these issues. As an example, the Workshop participants cited an initiative by the Federal Communications Commission (FCC) has to increase assistance to Native Americans through the *Lifeline* and *Link Up* programs, and conduct outreach to ensure that Native Americans are familiar with these programs and know how to qualify for them. FCC has also changed its auction

rules to increase incentives for wireless carriers to serve Indian lands, and has streamlined the process for telecommunications companies to receive universal-service support in serving Indian Lands.⁶⁴

Another opportunity may exist through the Indian Financing Act of 1974⁶⁵, under which Tribes may issue tax-exempt bonds to fund “essential government functions” that state and local governments customarily provide — including principal infrastructure improvements. However, according to Workshop participants, most Tribes do not have the ability to service tax-exempt bond debt. While Tribes as sovereigns have the authority to levy taxes, there is frequently an inadequate tax base to finance infrastructure improvements.

A number of other mechanisms exist to finance infrastructure development, including loans from Tribal trust funds, loans to Tribes from revolving credit funds (established in section 10 of the Indian Reorganization Act of 1934⁶⁶), loans for infrastructure development pursuant to the Indian Financing Act, Tribal (general obligation) bonds, publicly issued and traded Tribal bonds, revenue bonds, joint ventures with the private sector, and grants. However, most of these are based on some form of debt, and most Tribes, according to Workshop participants, do not have tax bases that would enable them to qualify for loans or bonds.

EDUCATIONAL AND CULTURAL BARRIERS

Workshop participants and Financial Survey respondents identified banker, investor, and Tribal lack of knowledge, understanding or capacity more often than any other set of barriers to private investment. Specifically, they identified the following seven barriers that were grouped into this theme:

- Lack of knowledge or experience with the financial world on the part of Tribes and individual Native Americans and Native Hawaiians
- Lack of technical assistance resources
- Failure of lenders and investors to understand Tribal government or legal systems
- Poor understanding of Tribal sovereignty and sovereign immunity
- Historical absence of trust between Tribes and banks
- Differences between Native American and Native Hawaiian cultures and the banking and investor cultures
- Discrimination against and/or stereotyping of Native American and Native Hawaiian communities

⁶⁴ “Federal Communications Commission Takes Steps to Promote Access to Telecommunications on Tribal Lands,” Federal Communications Commission, June 8, 2000, p.1.

⁶⁵ 12 U.S.C. §§ 1451, *et seq.*

⁶⁶ 12 U.S.C. § 465.

Participants and respondents suggested the following four recommendations:

- Expand financial education for Native Americans and Native Hawaiians
- Develop entrepreneurship programs for Native Americans and Native Hawaiians
- Conduct lender and investor education
- Expand technical assistance

IDENTIFICATION OF BARRIERS

Lack of Knowledge or Experience With the Financial World on the Part of Tribes and Individual Native Americans and Native Hawaiians

According to CDFI Fund research, in Native American and Native Hawaiian economies, most transactions have been conducted using cash. Many Native Americans and Native Hawaiians thus lack an understanding of banking, credit reporting, and loan qualification processes and standards and have difficulty obtaining credit because they have no credit histories or, in some cases, bad credit histories. Moreover, Native American residents of Indian Lands and Native Hawaiians often lack knowledge and experience in preparing the business plans required for bank financing. In addition, many are unfamiliar with how financial markets work, how to make equity financing choices, and what investors require.

According to CDFI Fund research and Equity Investment Roundtable, equity investment has not traditionally been a Tribal focus for capital formation. While Tribes are beginning to reinvest their funds as equity in new businesses, accepting external equity investment is still often a foreign concept. Native American and Native Hawaiian cultures have not traditionally been profit-driven, and the Tribal government's objective in business management and business development is often job creation to address immediate unemployment problems. Moreover, according to Workshop participants, in the past, some unscrupulous salespeople have taken advantage of these Tribal sensibilities to offer investments to Tribes that subverted Tribal values and returned little. Such experiences have contributed to a history of Tribal distrust of "outside" business interests. This is often exacerbated when a non-Native investor or lender requires that, as part of the deal, the Tribe or entrepreneur relinquish partial ownership and control of the business to the investor.

In evaluating potential funding opportunities, bankers and equity investors analyze the loan applicant's management skills, financial knowledge, and business planning ability. Equity investors also require that applicants seeking investment capital have business plans, which is often an unfamiliar concept to many Native Americans and Native Hawaiians, according to Workshop participants. Therefore, before they even apply for capital, potential Native American and Native Hawaiian entrepreneurs are likely need assistance with strategic, business, and financial planning. Equity Investment Roundtable participants noted that the consequences of inexperience with the financial services sector can be serious:

- Many Native Americans and Native Hawaiians do not establish credit histories or have poor credit histories that disqualify them from many loans, and they tend to have relatively high loan default rates.
- Native Americans and Native Hawaiians can be vulnerable to predatory lenders.
- Native Americans and Native Hawaiians can be subject to high financial service costs that are passed on in high interest rates on loans.

Similarly, according to Workshop participants, the implications of a lack of understanding of private equity investment can be serious:

- Tribes do not know how to locate and approach equity investors.
- Native American and Native Hawaiian business proposals are not funded if they do not meet equity investors' goals.
- Native Americans and Native Hawaiians often do not know how to package development proposals for consideration for loan in equity investment, and are thus not successful in obtaining funds.

Lack of Technical Assistance Resources

The Study identified the lack of technical assistance and training financial literacy, financial management and banking and investment standards as serious barriers. Workshops participants identified a variety of unmet training needs for Tribal governments and Native American and Native Hawaiian entrepreneurs. Many stakeholders would benefit from technical assistance and training that facilitate greater access to lending and investments in Native American communities. The consensus of Workshop participants was that a lack of technical assistance limits Tribes' opportunities to build the internal capacities of potential financial managers or entrepreneurs.

Failure of Lenders and Investors to Understand Tribal Government or Legal Systems

Equity Investment Roundtable participants suggested that many lenders and investors have had limited exposure to Tribal government operations, regulations, and enforcement. Lenders and investors are concerned about not being able to collect on their debts or fear that the process of doing so will be complex and difficult. They may not know how to get Tribal government approval or how to get a stalled project moving. They may not have or know how to find attorneys that are knowledgeable about a particular Tribe's laws and regulatory requirements and they may not trust the impartiality of the Tribe's courts. As a result, lenders and investors perceive higher risk and cost associated with lending and investment activity on Indian Lands and thus few lenders and investors pursue Native American markets.

Poor Understanding of Tribal Sovereignty and Sovereign Immunity

Study results indicate that lenders and investors do not understand Tribal and Village sovereignty and sovereign immunity, and thus often are reluctant to conduct business on Indian Lands because they fear that they will not be able to recover assets or enforce contracts in the event of a default or a bankruptcy.

"...there is a misunderstanding of Tribal sovereignty... We fear what we don't understand. And when you fear what you don't understand, it makes you reluctant to work with the Tribes. And if the lenders won't work with the Tribes and they fear them, then biases are created. And when the biases are created they get carried generation to generation and the problem just persists over and over again."

—Sharon Scott, Alutia Tribal Council, Alaska

Further, a number of lenders and investors who participated in Workshops or the Equity Investment Roundtable reported that they have tried to make loans in Native American communities and have been unsuccessful because they underestimated the time required or did not adequately address community concerns.

Historical Absence of Trust Between Tribes and Banks

The Financial Survey revealed significant differences in perception between Tribes and FSOs, involving the difficulty of accessing financial products and services. Workshop participants reported that there has been a historical lack of trust between Native Americans and Native Hawaiians and FSOs. Further, they reported that this lack of trust has impeded the development of working relationships, and caused misunderstanding that has led, in turn, to: failed negotiations for loans; cultural isolation; increased costs of doing business for Native Americans and Native Hawaiians; and a reluctance on the part of banks to underwrite loans.

Differences Between Native American and Native Hawaiian Cultures and the Banking and Investor Cultures

A key difference between Native American and Native Hawaiian cultures and the financial and investment culture on views of wealth and sharing became evident in the Workshops and the Equity Investment Roundtable. As participants explained, traditional banking and investor cultures value profit and the accumulation of assets; creditworthiness is determined by “objective” standards based on an individual’s accumulated wealth, income stream, controlling assets, and credit history; and land is an asset with a value that is determined (it belongs to individuals and can be legally transferred).

In contrast, according to Workshop participants, Native Americans and Native Hawaiians with an asset to lend to another are more likely to consider the borrower’s character and the relationship between the lender and the borrower. The traditions and customs regarding debts of Tribal members exist in various ways. Workshop participants and commentators have observed that debtor creditor relationships in Native American communities frequently are family as well as individual obligations. Moreover, they have noted, Native American creditors’ determinations of potential borrowers’ creditworthiness factors in the individuals’ character and the ongoing relationship between the lender and the borrower. Perhaps most telling, CDFI Fund research found, and Workshop participants confirmed, that such local “underwriting” practices yield more than competitive repayment rates.

In many Native American and Native Hawaiian communities, relationships are built on interdependence and resource sharing. Generosity and giving away one’s possessions is a mark of Native American wealth. This is often demonstrated at social gatherings where one’s possessions are distributed at a “give away” or “potlatch” to members of the community. The concept of wealth building, as most bankers and investors understand it, is often foreign in many Native American and Native Hawaiian cultures. Land is held communally and its value belongs to the community. The idea that one can establish a credit history and develop assets through a home mortgage is not seen as creating wealth.

“...a lot of the Tribes are faced with the fear of losing self-governance and control. So we felt it was real important they understand...the rules of lending and how it would apply to them as a sovereign nation.”

*—David Salmon,
Chalkyitsik Traditional
Council, Alaska*

“We need to come up with a balance, and they [cultural heritage vs. western values] both have a place in our lives today in the Hawaiian community. But that is a very sensitive issue. You don’t want to have to give up one in order to pursue the other.”

—William Chang, Hina-Malailena, Hawaii

“It takes me back to my point this morning about communication, knowledge, and understanding. The more both sides have that, the more you reach a level of trust. That’s really where the partnerships need to go between Indian Country organizations and outside organizations.”

*—James W. Wagele,
Bank of America*

The lack of understanding of these differences in value systems and their impact on relationship building, approaches to contract making and receptiveness to marketing approaches was apparent in the Workshops. For example, some Native American and Native Hawaiian representatives discussed the importance of maintaining their cultures and the difficulties that they encounter when trying to establish new policies and procedures that fulfill lender and investor demands and expectations. Workshop participants from FSOs, investment, Native American, and Native Hawaiian communities expressed a desire to learn more about each other in ways that will facilitate relationship-building, contract-making and product development.

Discrimination Against and/or Stereotyping of Native American and Native Hawaiian Communities

According to Workshop participants, Native Americans and Native Hawaiians suffer from discrimination and/or stereotyping in lending arenas. Study participants reported that such activity plays out in many subtle and overt ways ranging from misunderstandings and missteps that occur when two individuals raised with different values communicate with each other to overt redlining and discriminatory lending practices. Workshop participants report that much discrimination today is subtle, and sometimes surfaces as less outreach by lenders to Native American and Native Hawaiian communities than to other communities and as prospective Native American and Native Hawaiian borrowers feeling unwelcome and uncomfortable in the lending arena. In addition, Workshop participants report that few in the Native American and Native Hawaiian communities are familiar enough with federal and state consumer protection and fair lending laws to address potential discrimination in lending.

POTENTIAL REMEDIES

Expand Financial Education for Native Americans and Native Hawaiians

A key strategy identified by Workshop participants for addressing educational and cultural barriers is to provide financial education to Native Americans and Native Hawaiians. Such education can enhance economic and community development efforts on Indian Lands and Hawaiian Home Lands by giving people the expertise to shape their own and their communities’ economic futures. Financial literacy curricula are readily available from various sources, although they may need to be adapted for Native American and Native Hawaiian students.⁶⁷

“Our group felt that education was our No. 1 priority... We’re talking about Tribal leaders being educated as to what is needed to get loans, what processes you have to go through; the lenders as to how Tribes are run, what our Tribal codes are...”

*—Sharon Holmdahl,
Colville Tribal Credit,
Washington*

⁶⁷ For example, First Nations Development Institute, in partnership with the Fannie Mae Foundation, has developed a personal finance curriculum that is tailored to the Native American community. In addition, the National Partnership for Financial Education, a consortium of federal agencies and regulators, non-profits, and trade associations, is working to improve financial literacy in Native American communities.

The actions recommended by Workshop participants include:

- Establishment of teaching partnerships among Tribal and non-Tribal colleges, financial institutions, nonprofits, and CDFIs.
- Incorporation of web-based training in the curriculum.
- Facilitation of funding and teacher recruitment through the private sector, Tribes, Inter-Tribal organizations, and federal agencies.

Develop Entrepreneurship Programs for Native Americans and Native Hawaiians

According to Workshop participants, entrepreneurs and small business owners are essential to Native American and Native Hawaiian economies; however, the skills of the trade of a good mechanic or restaurateur, for example, are qualitatively different from the financial, marketing, and personnel development skills required of a successful entrepreneur. An entrepreneurial training program and small business finance education program can help bridge this gap.

Educational curricula can be adapted to fit elementary-to-high-school educational programs, and Workshop participants recommended teaching entrepreneurial skills to both school children and adults. Moreover, Workshop participants suggested that entrepreneurship programs in high school could be reinforced with business development programs, such as Junior Achievement, where young people learn to start small businesses, and core materials on personal finance, small business finance, and entrepreneurship can be presented.

An example of a training program cited by Workshop participants is the American Indian Business Leaders entrepreneurial training program, headquartered at the University of Montana in Missoula, for Native American high school and college students.

Conduct Lender and Investor Education

One initiative suggested by Workshop participants is to develop educational programs on Native American and Native Hawaiian economies and markets so as to increase lender and investor awareness of Native American and Native Hawaiian market opportunities, business successes, and emerging entrepreneurs. Workshops and National Roundtable discussions revealed that stakeholders are interested in continuing the information and education exchanges begun here. Specific actions recommended by the participants include:

- Development of guides to Tribal government structures and procedures, sovereignty and sovereign immunity, land status, Native American and Native Hawaiian culture, protocol, and etiquette Tribal laws, regulatory/licensing requirements and financing and economic development needs.
- Creation of a directory of Tribal credit officers, economic development officers, department heads, and attorneys qualified to practice in Tribal courts.
- Development of a general marketing campaign that illustrates effective practices and success stories by implementing awards programs, such as Honoring Nations (Harvard University's annual awards for innovative Tribal government programs).

“We’re only going to be here for so long, but we need to start working with young people, you know, the kids, and that’s part of your vision here and I want to see that continued further.”

*—Mark Madsen,
Jamestown S’Klallam
Tribe, Washington*

“...we want to increase the awareness with the partners that we have, the Federal government, lenders, private players, by bringing them out to the communities... This then, we would hope, would lead to specific projects that were designed specifically for that community...”

*—Jeri Walters, National
Bank of Alaska*

- The initiation of educational seminars by Native American and Native Hawaiian communities focusing on Native American and Native Hawaiian business investment opportunities.
- Creation of speakers bureaus, to be offered through extension services, chambers of commerce, Tribal community colleges, Inter-Tribal organizations and Alaska Native regional corporations.
- Development of web-based databases that include economic and institutional profiles of Native American and Native Hawaiian communities, federal programs that may be available to support economic development projects, and lending and investment resources.
- Development of educational materials about fair lending laws and creation of forums to present these materials to Native American and Native Hawaiian audiences.
- Development of educational materials about discrimination and cultural awareness, and creation of forums to present these materials to lenders, investors, and state and federal officials.

Expand Technical Assistance

Workshop participants recommended developing technical assistance resources for small business owners on Indian Lands and Hawaiian Home Lands. Most Workshop participants agreed that small business finance and entrepreneurship training and education alone would not be enough to create financial opportunities on Indian Lands and Hawaiian Home Lands, for entrepreneurs and small-business owners would likely require assistance in applying the training to their unique situations. The Financial Survey indicated that Native Americans and Native Hawaiians with access to counseling, training, and/or technical-assistance resources are more likely to rate financial products and services as easier to obtain.

Actions recommended by Workshop participants include:

- Development of small business incubators, resource centers, “one-stop shops,” and CDFIs to provide business development and management technical assistance.
- Use of circuit riders or loaned staff from partner business and financial institutions to augment small business resource center nonprofit staff in training Tribal and Inter-Tribal office staffs.
- Creation of regional business resource centers funded by federal, Tribal, and private sources.

Examples of such assistance cited by Workshop participants include the SBA Micro Loan program, the SBA Tribal Business Information Centers, and technical assistance programs for program borrowers such as the Hopi Credit Association, the Lakota Fund, and the Alaska Growth Capital BIDCO, Inc.

According to Workshop participants, another useful strategy may be to coordinate technical assistance resources by establishing a national clearinghouse of training and technical assistance resources relating to lending and investment, developing a training package that includes planning models relevant to Tribal business opportunities, and conducting regional forums and inviting Tribal businesses to test plans before panels of experts.

According to Workshop participants, the basic financial training discussed above can be further strengthened with student internships and with exchanges for adults. Internships for Native American and Native Hawaiian students with financial regulatory agencies and financial institutions could be an effective way for students to obtain financial training and job skills. In addition, Tribal government professionals could use exchange programs and details or rotations in administration and regulatory agencies to improve their financial skills. An exchange could be particularly useful because it will allow federal and FSO staff to gain understanding of the workings and needs of Tribal governments. Actions recommended by Workshop participants include enhanced recruitment of Native Americans and Native Hawaiians by financial institutions and establishment of Federal and private sector internships, exchange programs, technical assistance and training programs, personal finance and entrepreneurship education programs, and college and graduate school student programs in business, finance, and economics.

Additionally, Workshop participants recommended the development of mentoring programs with industry that would involve educating Tribal entrepreneurs on the decision criteria and processes used by equity investment fund boards, chambers of commerce, and industry and trade groups.

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“I know what we need to do. All the ingredients are there. We just need to put the pieces together. The challenge is, are tribes ready and is Congress and the Administration willing to provide or create the necessary receptive environment and support to ‘enable’ Native Nations to prosper.”

—Bobby Whitefeather, Tribal Chairman, Red Lake Band of Chippewa Indian, Minnesota

CONCLUSION: KEY INITIATIVES

Tribal and Native Hawaiian communities throughout the nation confront daunting economic challenges. They are confronted with legal infrastructure, governmental operations, economic financial, physical infrastructure, education and cultural barriers. As indicated in this Report, there has been palpable progress in addressing these challenges. A significant number of Tribes have mounted innovative development strategies. Efforts are underway to enhance the capacities of Tribal governments. There are many examples of “win-win” relationships with major manufacturing and financial service organizations. Real, albeit modest, progress has been made in addressing the backlog of investment in human and physical capital. Recent federal policies that stress government-to-government relationships are beginning to provide more Tribal governmental control.

Despite these achievements, much more remains to be accomplished. This requires a disciplined focus on expanding access to capital for businesses and households located in Tribal and Native Hawaiian communities. Workshop participants and Financial Survey respondents identified a host of remedies for Tribal governments, the financial community and the federal government acting independently or in concert to achieve this objective. There are, however, a few critical initiatives that can serve as essential catalysts for accelerating progress.

FEDERAL GOVERNMENT NEXT STEPS

This Study does not purport to review every program or policy that operates on Indian Lands or Native Hawaiian Home Lands, whether federal, state or local. In particular, the discussion of federal government programs set forth in this Study was generated primarily from the comments and experiences of Workshop participants. From among their many recommendations, priority initiatives involve maintaining investments for physical, telecommunications and utility infrastructure, facilitating the creation of public-private equity investment funds, and supporting for an array of vehicles for training, technical assistance for both Tribal governments and businesses, and facilitating linkages to financial markets. These and other initiatives would be assisted by the ongoing Congressional charge to the General Accounting Office and the Department of Commerce for a comprehensive review of federal government programs and policies that affect, and attempt to facilitate, economic development and capital allocation on Indian Lands.

CHAPTER FOUR

TRIBES' AND NATIVE HAWAIIANS' NEXT STEPS

In addition to "next steps" for government entities, information gathered for this Study also revealed a number of steps that Tribes and Native Hawaiians must take to facilitate the flow of debt and equity capital into Indian Lands and Native American Home Lands. The most oft-repeated step for Tribes is the need to rationalize Tribal legal systems and promulgate commercially reasonable, predictable guidelines for their exercise of sovereign immunity. One of the chief barriers to lending and equity investment in Indian Lands that is squarely in Tribal control, as reported by Workshop participants, is unpredictability of Tribal judicial systems. Accordingly, an important next step for Tribes is the development of court systems that provide for the orderly disposition of the rights of aggrieved parties to commercial transactions. Such reform would be buttressed by codifying or adopting local commercial codes, zoning and planning codes, and laws generally regulating corporate activity.

Another important step identified by the Study's participants is the adoption and publication of rational, predictable rules for the operation of sovereign immunity in commercial transactions.

In addition, Tribes and Native Hawaiian communities will have to build their respective local capacities to facilitate economic development and the financing of local activity. Tribal authorities, for example, will have to expand their capacity to plan and coordinate economic activity. Tribal Authorities and Native Hawaiian communities will need to build the capacities of prospective local entrepreneurs. Tribes and Native Hawaiian groups can forge regional cooperation through inter-Tribal organizations, and use programs like the CDFI Fund's Native American CDFI Technical Assistance (NACTA) program to increase their respective capacities.

FINANCIAL INSTITUTIONS' NEXT STEPS

Financial institutions, including private equity investors, also have a continuing role in addressing the barriers to lending and equity investment in Indian Lands and Native Hawaiian Home Lands. Financial institutions have to develop a local presence that is flexible enough to participate in transactions that do not fit 'typical' profiles. This might entail the opening of branch offices in Indian Land or Native Hawaiian communities. It also might entail partnering with Tribes and Native Hawaiian groups to form local CDFIs, loan funds or investor groups. To do this, financial institutions will have to find models for managing risk, while addressing the non-traditional profiles of some borrowers.

Financial institutions can be important partners for Tribes. The institutions can be an important resource in the capacity building that Tribes and Native Hawaiian communities must undertake by providing technical assistance. Financial institutions can also work as a bridge between Tribes or Native Hawaiian communities and the government to develop new financial products that are tailored to the particular needs of the communities (for example, mortgages for trust land).

COOPERATIVE ACTIVITY

Much of the progress in expanding access to capital was not achieved by tribal governments, financial institutions or federal agencies acting alone. Rather, progress often depended on these stakeholders acting together. One of the most important themes to emerge from the CDFI Fund's research, Workshops, and Equity Research is the need to foster even greater coordinated activity among stakeholders. For example, input of Tribal or Native Hawaiian

representatives to any review of the effectiveness of government programs or policies would help to answer questions about community compatibility and relevance. Neither technical assistance nor cultural education will have the desired effect unless Tribes, Native Hawaiian communities, and FSOs commit to such processes. Moreover, FSOs, government regulators, and Tribes would all likely have to participate in attempts to create new loan products for Native American or Native Hawaiian communities, or to address the peculiar issues arising from attempting to mortgage trust lands.

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APPENDICES

APPENDIX A

FINANCIAL SURVEY—FINANCIAL SERVICES ORGANIZATIONS

APPENDIX B

FINANCIAL SURVEY—TRIBAL LEADERS

APPENDIX A: FINANCIAL SURVEY—FINANCIAL SERVICES ORGANIZATIONS

This Financial Survey seeks to gather information on the assets and activities of branch offices located closest to Reservations or Indian Lands. To the extent possible, please provide branch level data.

1. What portion of your Branch's loan portfolio is comprised of the following products?
(Loan portfolio is defined as: Total Loans Outstanding as of June 30, 2000)

(PLEASE ✓ AS APPROPRIATE)	Not Applicable	Minor Component (10% or Less)	Not Applicable
Conventional mortgages	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Loans for mobile home purchases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Property rehabilitation loans	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Home equity loans	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Personal/consumer loans (e.g., trucks, autos, home furnishings)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Construction loans (residential and commercial real estate)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Start-up business loans (in operation for fewer than 2 years)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Micro business loans under \$25,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Small business loans between \$25,000 and \$100,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Large business loans over \$100,000	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. Does your branch or institution offer the following products to residents of Native American reservations or Indian Lands?

(PLEASE ✓ AS APPROPRIATE)	Not Applicable	Yes, a Minor Component (10% or Less of Loan Portfolio)	Yes, a Major Component (Greater than 10% of Loan Portfolio)
Conventional mortgages	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Loans for mobile home purchases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Property rehabilitation loans	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Home equity loans	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Personal/consumer loans (e.g., trucks, autos, home furnishings)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Construction loans (residential and commercial real estate)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Start-up business loans (in operation for fewer than 2 years)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Micro business loans (under \$25,000)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Small business loans (between \$25,000 and \$100,000)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Large business loans (over \$100,000)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

3a. Does your branch or institution maintain and/or offer the following...

	YES	NO
Financial services (deposit accounts) to tribal members residing on a Reservation or Indian lands	<input type="checkbox"/>	<input type="checkbox"/>
A branch(s) or service center(s) on a Reservation or Indian lands	<input type="checkbox"/>	<input type="checkbox"/>
An ATM(s) on a Reservation or Indian lands	<input type="checkbox"/>	<input type="checkbox"/>
Branches and ATM's near a Reservation or Indian lands that are readily accessible to Reservation or Indian land residents If so, what is the approximate distance from the Reservation or Indian Lands to these services? _____ miles	<input type="checkbox"/>	<input type="checkbox"/>
A "mobile" branch serving the Reservation or Indian lands	<input type="checkbox"/>	<input type="checkbox"/>
Federal loan or loan guarantee programs (e.g., SBA, HUD, VA, BIA, USDA, etc.) to tribal members residing on a Reservation or Indian lands	<input type="checkbox"/>	<input type="checkbox"/>
State loan or loan guarantee programs (e.g., state financing or mortgage authority, etc.) to tribal members residing on a Reservation or Indian lands	<input type="checkbox"/>	<input type="checkbox"/>

3b. Does your institution provide grants or equity investments to community development financial institutions(s) on reservations or Indian Lands, or does your institution partner with local CDFI's to finance projects or businesses on the reservation or Indian Lands?

If yes, does your institution participate in the CDFI Fund's Bank Enterprise Awards program?	<input type="checkbox"/>	<input type="checkbox"/>
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4. Does your branch or institution have...

	YES	NO
a marketing or outreach program for reservation-based or Indian Land-Based Communities in your area?	<input type="checkbox"/>	<input type="checkbox"/>
specific products for reservation or Indian Land-Based communities in your area?	<input type="checkbox"/>	<input type="checkbox"/>

If yes to either question, please provide examples:

5. To what extent does your branch fund or directly provide training, counseling, or technical assistance to Native Americans, tribes, or Native American organizations on a reservation or Indian Lands on the following topics...

	NONE	VERY LIMITED	MODEST	SUBSTANTIAL
Basic financial literacy (e.g., family budget, managing a checkbook, savings plan)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Consumer credit counseling and/or credit repair	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Your institution's financial products and services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Home buyer education	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Basic small business financial literacy (e.g., writing a business plan, sources of financing, obtaining a bank loan – what banks look for)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Accounting and bookkeeping	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Federal laws and regulations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other (please specify)				

6. Please indicate the degree of ease or difficulty branch or institution typically experiences financing the following on reservations or Indian Lands...

	NOT APPLICABLE	EASY	SOMEWHAT EASY	SOMEWHAT DIFFICULT	DIFFICULT	EXTREMELY DIFFICULT
Conventional mortgages	<input type="checkbox"/>					
Loans for mobile home purchases	<input type="checkbox"/>					
Property rehabilitation loans	<input type="checkbox"/>					
Home equity loans	<input type="checkbox"/>					
Personal/consumer loans (e.g. trucks, autos, home furnishings)	<input type="checkbox"/>					
Construction loans (residential and commercial real estate)	<input type="checkbox"/>					
Start-up business loans (in operation for fewer than 2 years)	<input type="checkbox"/>					
Micro business loans under \$25,000	<input type="checkbox"/>					
Small business loans between \$25,000 and \$100,000	<input type="checkbox"/>					
Large business loans over \$100,000	<input type="checkbox"/>					
Comments:						

7. Review the list of items below and indicate the degree to which each item presents a barrier to your branch's or institution's lending activity on the Reservation(s) or Indian Lands in your area.

Please rate each barrier by placing a ✓ in the corresponding box. You may add additional barriers in the space provided below.

The following list of items does not necessarily reflect the views of the Treasury Department, but is the stated views of participants in 13 national Workshops conducted by the CDFI Fund's Native American Lending Study/Action Plan Program regarding possible barriers to lending on Native American, Native Hawaiian, and Alaska Native Communities.

	NOT APPLICABLE	NOT A BARRIER	MINOR BARRIER	MODERATE BARRIER	SIGNIFICANT BARRIER	VERY SIGNIFICANT BARRIER
A. Cumbersome, conflicting, or ineffective State and/or Federal programs and regulations	<input type="checkbox"/>					
B. Inflexible lending/underwriting regulations	<input type="checkbox"/>					
C. Limited use of Trust land as collateral	<input type="checkbox"/>					
D. Tribal members on the Reservation or Indian lands lack capital, collateral, and/or credit histories	<input type="checkbox"/>					
E. Lenders do not understand Tribal governmental or legal systems	<input type="checkbox"/>					
F. Tribes and Tribal members on the Reservation or Indian lands lack knowledge of or experience with the financial world	<input type="checkbox"/>					
G. Insufficient or non-existent written Tribal commercial laws and regulations (e.g., commercial code, zoning code, or building code)	<input type="checkbox"/>					
H. Differences between Native American culture and the banking culture	<input type="checkbox"/>					
I. Lack of understanding of Tribal sovereignty and sovereign immunity	<input type="checkbox"/>					
J. Tribes or Tribal members and banks have historically not trusted each other	<input type="checkbox"/>					
K. Lack of physical and telecommunications infrastructure on the Reservation or Indian lands	<input type="checkbox"/>					
L. Discrimination against and/or stereotyping of Native American communities	<input type="checkbox"/>					
M. Insufficient number of banks on or near the Reservation or Indian lands	<input type="checkbox"/>					
N. Lack of technical assistance resources	<input type="checkbox"/>					
O. Change in Tribal governmental leadership creates uncertainty	<input type="checkbox"/>					

Comments or other barriers not listed:

8. Select and rank the top three barriers from the previous question in order of significance and recommend a strategy or strategies to overcome each barrier.

Strategies may include initiatives that can be implemented by lending institutions, Native American communities, or nationally (by Federal or private institutions). You may have more than one strategy per barrier. Please feel free to attach additional sheets of paper if necessary.

RANK	LETTER OF BARRIER (FROM LIST IN #7)	STRATEGY TO OVERCOME THE BARRIER
(most significant) 3		
2		
(least significant) 1		

9. To which industry sectors do you extend lending? (Please check all that apply)

- Agriculture
- Construction
- Manufacturing
- Natural Resources (Energy/Minerals/Timber)
- Retail
- Housing
- Services
- Tourism, Hospitality, Recreation
- Transportation
- Utilities and Telecommunications
- Other (please specify)

10. What is your Branch or Institution's minimum loan threshold for...

Personal/Consumer Loans \$

Business Loans \$

11. What type of charter does your institution have? (Please check all that apply)

- Federally chartered bank
- State-chartered bank
- Federally chartered thrift, savings association, or savings bank
- State-chartered thrift, savings association, or savings bank
- Federally chartered credit union
- State-chartered credit union
- Other (please specify)

12. Please indicate the asset size of your branch or institution as of 6/30/2000

- Up to \$100 million
- \$101 million to \$1 billion
- \$1 billion to \$10 billion
- \$10 billion to \$20 billion
- More than \$20 billion

13. Office or official responding:

Name and contact number (optional):

What state and Reservation(s) or Indian lands do you serve? (optional):

APPENDIX B: FINANCIAL SURVEY—TRIBAL LEADERS

1. Does your tribe currently sponsor, fund, partner with, or otherwise offer to its members any of the following...

- Credit office, credit department, or credit association
- Rental assistance
- Mortgage assistance (down payment or subsidy)
- Business lending program (business/financing assistance)
- Cooperative services (agricultural, arts & crafts, or other cooperative services)
- Tribally-owned bank or other financial institution
- Community development corporation (CDC)
- Community development financial institution (CDFI)
(e.g., a community-based loan fund, credit union, venture capital fund, etc.)

2. Are non-tribally affiliated institutions offering the following types of financial products and services to your tribe, tribal entities, or tribal members living on the reservation or Indian Lands...

(✓ IF YES)	LOCATED ON THE RESERVATION/ INDIAN LANDS?	LOCATED NEAR THE RESERVATION/ INDIAN LANDS?
Conventional home mortgages	<input type="checkbox"/>	<input type="checkbox"/>
Loans for mobile home purchases	<input type="checkbox"/>	<input type="checkbox"/>
Property rehabilitation loans	<input type="checkbox"/>	<input type="checkbox"/>
Home equity loans	<input type="checkbox"/>	<input type="checkbox"/>
Personal/consumer loans (e.g., vehicles, home furnishings, etc.)	<input type="checkbox"/>	<input type="checkbox"/>
Construction loans (residential and commercial real estate)	<input type="checkbox"/>	<input type="checkbox"/>
Start-up business loans (in operation for fewer than 2 years)	<input type="checkbox"/>	<input type="checkbox"/>
Micro business loans (businesses requiring under \$25,000 to individual tribal members)	<input type="checkbox"/>	<input type="checkbox"/>
Small business loans (businesses requiring between \$25,000 and \$100,000) to individual tribal members	<input type="checkbox"/>	<input type="checkbox"/>
Private equity investments (venture capital investments, start-up capital)	<input type="checkbox"/>	<input type="checkbox"/>
Financial services (checking and savings accounts)	<input type="checkbox"/>	<input type="checkbox"/>
Large business loans (businesses requiring over \$100,000) to individual tribal members	<input type="checkbox"/>	<input type="checkbox"/>
Large business loans (businesses requiring over \$100,000) to tribe	<input type="checkbox"/>	<input type="checkbox"/>
“Mobile” banking services	<input type="checkbox"/>	<input type="checkbox"/>
Automated Teller Machines (ATM’s)	<input type="checkbox"/>	<input type="checkbox"/>
What is the approximate distance from the Reservation or Indian Lands to the nearest branch or ATM?		

3. Indicate the ease or difficult Tribal members residing on the reservation or Indian Lands typically experience obtaining...

(PLEASE ✓ ONE FOR EACH ITEM LISTED)	NOT APPLICABLE	EASY	SOMEWHAT EASY	SOMEWHAT DIFFICULT	DIFFICULT	EXTREMELY DIFFICULT
Conventional home mortgages	<input type="checkbox"/>					
Loans for mobile home purchases	<input type="checkbox"/>					
Property rehabilitation loans	<input type="checkbox"/>					
Home equity loans	<input type="checkbox"/>					
Personal/consumer loans (e.g., vehicles, home furnishings, etc.)	<input type="checkbox"/>					
Construction loans (residential and commercial real estate)	<input type="checkbox"/>					
Start-up business loans (in operation for fewer than 2 years)	<input type="checkbox"/>					
Micro business loans (businesses requiring under \$25,000)	<input type="checkbox"/>					
Small business loans (businesses requiring between \$25,000 and \$100,000)	<input type="checkbox"/>					
Large business loans (businesses requiring over \$100,000)	<input type="checkbox"/>					
Business site leases	<input type="checkbox"/>					
Homesite leases	<input type="checkbox"/>					
Private equity investments (venture capital investments, start-up capital)	<input type="checkbox"/>					
Financial services (checking and savings accounts)	<input type="checkbox"/>					

4. From the list below, please ✓ the sources of funds your tribe or its members use most often to finance the activities listed. (■ = not applicable)

(Please ✓ all that apply)

How Your Tribe Finances...	Personal Source (e.g., savings, credit cards, loan from family)	Tribal Source (e.g., credit office, tribal corporation)	Banks	Venture Capital	Federal or State Government (e.g., grants or loans)	Bonding Authority
Reservation infrastructure	■	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Large business (26 or more employees)	■	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Economic development (e.g., capital improvement projects, neighborhood revitalization, etc.)	■	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

How Tribal Members Finance...

Consumer purchases (vehicles, home furnishings, etc.)	<input type="checkbox"/>	■				
Home purchases	<input type="checkbox"/>					
Home construction	<input type="checkbox"/>					
Home equity loans	<input type="checkbox"/>					
Property rehabilitation	<input type="checkbox"/>					
<u>Micro business (5 or fewer employees)</u>	<input type="checkbox"/>					
Small business (6-25 employees)	<input type="checkbox"/>					
Large business (26 or more employees)	<input type="checkbox"/>					

5. Approximately how many organizations on or near the reservation/Indian Lands provide training, counseling, or technical assistance to tribal members residing on the reservation or Indian Lands regarding...

	FILL IN A NUMBER (e.g., 0,1,2,...)	IS THIS SUFFICIENT TO MEET THE NEEDS OF YOUR COMMUNITY?	
		YES	NO
Basic financial literacy (e.g., family budget, managing a checkbook, savings plan)		<input type="checkbox"/>	<input type="checkbox"/>
Consumer credit counseling and/or credit repair		<input type="checkbox"/>	<input type="checkbox"/>
Banking and lending practices		<input type="checkbox"/>	<input type="checkbox"/>
Home buyer education		<input type="checkbox"/>	<input type="checkbox"/>
Basic small business financial literacy (e.g., writing a business plan, sources of financing, obtaining a bank loan, etc.)		<input type="checkbox"/>	<input type="checkbox"/>
Accounting and bookkeeping		<input type="checkbox"/>	<input type="checkbox"/>
Federal laws and regulations		<input type="checkbox"/>	<input type="checkbox"/>
Other (please specify)		<input type="checkbox"/>	<input type="checkbox"/>

6. Review the list of items below and indicate the degree to which each item presents a barrier to your tribe’s and/or its members’ ability to obtain credit, equity investments, and/or financial services from the private sector (financial institutions, investors, etc.)

Please rate each barrier by placing a ✓ in the corresponding box. You may add additional barriers in the space provided below.

The following list of items does not necessarily reflect the views of the Treasury Department, but is the stated views of participants in 13 national Workshops conducted by the CDFI Fund’s Native American Lending Study/Action Plan Program regarding possible barriers to lending on Native American, Native Hawaiian, and Alaska Native Communities.

	NOT APPLICABLE	NOT A BARRIER	MINOR BARRIER	MODERATE BARRIER	SIGNIFICANT BARRIER	VERY SIGNIFICANT BARRIER
A. Cumbersome, conflicting, or ineffective State and/or Federal programs and regulations	<input type="checkbox"/>					
B. Inflexible lending rules and regulations	<input type="checkbox"/>					
C. Limited use of Trust land as collateral	<input type="checkbox"/>					
D. Tribal members on the Reservation or Indian lands lack capital, collateral, and/or credit histories	<input type="checkbox"/>					
E. Lenders do not understand Tribal governmental or legal systems	<input type="checkbox"/>					
F. Tribes and Tribal members on the Reservation or Indian lands lack knowledge of or experience with the financial world	<input type="checkbox"/>					
G. Insufficient or non-existent written Tribal commercial laws and regulations (e.g., commercial code, zoning code, or building code)	<input type="checkbox"/>					
H. Differences between Native American culture and the banking culture	<input type="checkbox"/>					
I. Lack of understanding of Tribal sovereignty and sovereign immunity	<input type="checkbox"/>					
J. Tribes or Tribal members and banks have historically not trusted each other	<input type="checkbox"/>					
K. Lack of physical and telecommunications infrastructure on the Reservation or Indian lands	<input type="checkbox"/>					
L. Discrimination against and/or stereotyping of Native American communities	<input type="checkbox"/>					
M. Insufficient number of banks on or near the Reservation or Indian lands	<input type="checkbox"/>					
N. Lack of technical assistance resources	<input type="checkbox"/>					
O. Change in Tribal governmental leadership creates uncertainty	<input type="checkbox"/>					

Comments or other barriers not listed:

7. Select and rank the top three barriers from the previous question in order of significance and recommend a strategy or strategies to overcome each barrier.

Strategies may include initiatives that can be implemented by lending institutions, Native American communities, or nationally (by Federal or private institutions). You may have more than one strategy per barrier. Please feel free to attach additional sheets of paper if necessary.

RANK	LETTER OF BARRIER (FROM LIST IN #6)	STRATEGY TO OVERCOME THE BARRIER
(most significant) 3		
2		
(least significant) 1		

8. Does your tribe have the following? (Please check all that apply)

- Tribal tax code
- Overall economic development plan
- A program that encourages entrepreneurship
- Land use plan including roads, communication, and future building uses
- Tribal zoning code
- Tribal building code
- Tribal court system
- Tribal mortgage code
- Tribal commercial code
- Tribal foreclosure code/ordinance
- Authority to waive or provide a limited waiver of sovereign immunity

9. In your best estimate, which of the following industry sectors on your reservation or Indian Landshave the most significant need for credit and/or capital? (Please check no more than four)

- Agriculture
- Construction
- Manufacturing
- Natural Resources (Energy/Minerals/Timber)
- Retail
- Services (Government)
- Services (Non-Government)
- Housing
- Tourism, Hospitality, Recreation
- Transportation
- Utilities and Telecommunications
- Other (please specify)

10. What is your Tribe’s current unemployment rate? _____%

11. To the best of your knowledge, what percentage of the total adult tribal population are employed full time or part time, in...

	FULL TIME	PART TIME
Agriculture	%	%
Construction	%	%
Manufacturing	%	%
Natural Resources (Energy/Minerals/Timber)	%	%
Retail	%	%
Housing	%	%
Services (Government)	%	%
Services (Non-Government)	%	%
Tourism, Hospitality, Recreation	%	%
Transportation	%	%
Utilities and Telecommunications	%	%
Other (please specify)	%	%

12. Office or official responding (chairman’s office, community development or economic development office, planning office, etc.):

 Name and contact number (optional):