DIVERSIFYING NATIVE ECONOMIES

OVERSIGHT HEARING

BEFORE THE

COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

Wednesday, September 19, 2007

Serial No. 110-44

Printed for the use of the Committee on Natural Resources

Available via the World Wide Web: http://www.gpoaccess.gov/congress/index.html
or
Committee address: http://resourcescommittee.house.gov

U.S. GOVERNMENT PRINTING OFFICE

37-848 PDF WASHINGTON : 2008

For sale by the Superintendent of Documents, U.S. Government Printing Office
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OVERSIGHT HEARING ON "DIVERSIFYING NATIVE ECONOMIES"

Wednesday, September 19, 2007
U.S. House of Representatives
Committee on Natural Resources
Washington, D.C.

The Committee met, pursuant to call, at 10:02 a.m. in Room 1324, Longworth House Office Building, Hon. Nick J. Rahall, II [Chairman of the Committee] presiding.

Present: Representatives Rahall, Young, Kildee, Faleomavaega, Christensen, Napolitano, Grijalva, Boren, Inslee, Baca, Herseth Sandlin, Shuler, Fortuño, Cole and Bishop.

STATEMENT OF THE HONORABLE NICK J. RAHALL, II, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WEST VIRGINIA

The CHAIRMAN. Committee on Natural Resources will come to order.

At the beginning of this Congress, I stated that the Committee would focus on economic development options and other issues of importance to Native America. The Committee is meeting today to hold the first in a series of hearings on Diversifying Native Economies.

Today's hearing will focus on the Small Business Administration's Native 8[a] program designed to provide business opportunities to Indian tribes and Alaska Native Corporations.

With a 26 percent poverty rate in Indian Country and unemployment rates as high as 80 percent, the need for economic development in Native communities is pretty self-evident. Some Native governments have made great strides in combating this situation while others continue to struggle. Likewise, some Federal programs have worked better than others.

The Native 8[a] program demonstrates Congress' commitment to promoting tribal self-determination and self-sufficiency. The program reflects the unique character of Native governments and their responsibility to provide governmental services and other benefits to their members. Testimony today will discuss the benefits that the Native 8[a] program has brought to Native America.

Data shows that Tribal and Alaska Native Corporations received less than 1 percent—less than 1 percent of the $377.5 billion awarded through Federal procurement contracts. Of the $145 billion awarded through some source contracts, Tribal and Alaska

Native Corporations only received approximately 1.4 percent of that amount.

At the same time, the GAO issued a report last year highlighting the need for better oversight and administration of the program. So I look forward to today's testimony on how this program affects Native communities and how it can be improved to ensure that it is working as intended.

Congress needs to carefully examine the barriers and the challenges facing Native governments as well as which programs are working and why they are working. In doing so, we must ensure that the Federal programs designed to assist Native governments in addressing their needs are fair and working appropriately.

I now recognize the Acting Ranking Member, the gentleman from Oklahoma, Mr. Cole.

[The prepared statement of Mr. Rahall follows:]

Statement of The Honorable Nick J. Rahall, II, Chairman, Committee on Natural Resources

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Thank you.

STATEMENT OF THE HONORABLE TOM COLE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OKLAHOMA

Mr. COLE. Thank you very much, Mr. Chairman. I want to begin by reading Ranking Member Young's statement in the record, and then if I may, I will make a couple of brief comments of my own.

Mr. Chairman, I commend you for holding this hearing today on the subject of diversifying Native economies. My understanding is that you plan on holding a series of hearings on this broad theme. I hope these hearings are a tool to measure progress in implementing Indian self-determination, a policy set forth in 1970.

For anyone who wants to read the eloquent statement which launched the present era of self-determination, he should read President Richard Nixon's Special Message to the Congress on Indian Affairs dated July 8, 1970. Let me quote the first lines of this message.

"The first Americans, the Indians, are the most deprived and most isolated minority group in our nation on virtually every scale of measurement—unemployment, income, education, health—the condition of Indian people ranks at the bottom."

Today, conditions are greatly improved for the first Americans. They are closing the gap. Sadly, they still rank below the total population of the United States in the measurements described by President Nixon. There is much more work to be done. Progress that has been achieved so far has been achieved through a policy of self-determination. We should reenforce it as the primary means for Indians to improve their lives and control their destinies.

These days, Native Americans' summits and conferences tend to involve bankers, lenders, tax experts, natural resource managers and investors more than government workers. This is a healthy sign that Native Americans have taken the reins of their destinies.

One area in which Native enterprises has been a success is in the 8[a] contracting program. There have been some misconceptions about Native involvement in 8[a], bubbling up in various news reports and in other committees in Congress. Today's hearing will air out these issues and give the witnesses an opportunity to explain how the program is working for Native American economies.

That concludes Chairman Young's statement. Let me add, if I may, Mr. Chairman, from my own perspective——

The CHAIRMAN. This is Ranking Member Young.

Mr. COLE. Did I—you know. We can always hope, you know. Don't have much else right now.

[Laughter.]

Mr. COLE. He is present, by the way. In case you didn't know that, those were his words.

The CHAIRMAN. Oh, OK.

Mr. YOUNG. It seems like you are doing an outstanding job.

[Laughter.]

Mr. COLE. Well, that is because I was reading from your script. You usually tell me that, Mr. Young, when I do that.

But I do want to note that I am very privileged to represent a district that has an enormous amount of Tribal activity, Mr. Chairman. Obviously, my own tribe, the Chickasaws, but also the Choctaw Nation, Comanche Nation, Fort Sill Apaches, Cheyenne, you know, Southern Cheyenne, Arapaho, others, and they are in various states of economic development. This program has made an enormous difference, and I see tribal entities, frankly, investing in areas in my district that nobody else would invest in, bringing in resources, opportunities and jobs, and I think, as you eloquently point out in your statement, and Mr. Young in his statement, there is no question that if we looked at it on a per capita basis, there is not an undue amount of Federal money or contracts flowing into Tribal economies, but they have taken what is there and leveraged it and provided enormous opportunity for their people, and frankly,

in the case of my tribe, we have 11,000 employees, and we are a tribe of over 40,000 people, so we are very substantial, the majority of those jobs are to non-Native Americans, frankly.

There are other people in depressed areas that are brought into the economy other than just Native Americans by Native American activity.

So I want to commend you very personally and very sincerely for holding this hearing and giving us an opportunity to educate the rest of Congress about how important this is so we don't inadvertently kill the goose that has laid at least one or two golden eggs along the way, and I mean that quite sincerely. So thank you so much for holding the hearing, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Cole, for your statement and the Chair will recognize the Ranking Member if he has any additional comments to make.

Mr. YOUNG. Thank you again, Mr. Chairman, for having this hearing. This issue is something dear to my heart. We have done much to try to help, especially the Alaskan Native and American Natives, in this committee, and we have succeeded in some areas and failed in other areas, but this is one area, this ability to get involved economically has been quite successful. It is under attack, and I think it is time we have a chance to expose what it has done for groups within the nation, especially in the State of Alaska, and this is what this is all about.

I believe there is going to be another hearing in another committee. For some reason, they want to attack this program when it has been successful, and we ought to be patting people on the back and saying this is the right way to go, and there is nothing that has been a better success story than this story.

So again thank you for these hearings. I want to thank the witnesses that are going to be here from the administration and from especially the State of Alaska for flying this long distance to be here to give their side of the story as it should be for the record.

With that, I yield back the balance of my time.

[The prepared statement of Mr. Young follows:]

Statement of The Honorable Don Young, Ranking Republican, Committee on Natural Resources

Mr. Chairman and Members of the Committee, I want to thank you for holding this hearing. This is an issue that is very important to Alaska Natives and Indian Tribes and I would like to thank the witnesses for being here today. I know that many have traveled great distances to testify before this committee.

I'd like to start out by briefly going over the history of the Alaskan Native Corporations, or ANCs and their participation in the 8(a) program. The Alaskan Native Corporations were formed in a deal between Alaska Native leaders and the federal government. In exchange for giving up their land claims, 12 Alaska Native regional corporations were created, along with over 200 village corporations. These corporations were also given one ninth of the land that they had aboriginal claim to and a monetary settlement as part of the deal. A thirteenth regional corporation was later created for the Alaskan Natives that had moved from the state.

Each ANC is owned entirely by Native shareholders, none of whom can sell their shares. Any profits the corporations make are returned to the shareholders through a dividend, reinvested in the company or used to support the Native community, through cultural and social programs and scholarships.

The 8(a) program has been a success story for the Alaskan Native community. It has allowed the ANCs to create economic opportunity for their communities while preserving their culture and heritage. Most Alaskan Native villages are unreachable except by plane, severely limiting their ability to develop economically. Without this

development, life in the villages would be one of day to day survival. As it is, many villages do not have water or sewer systems, offer few opportunities for employment and lack some of the modern conveniences that people in the Lower 48 take for granted, such as electricity and telephones.

Of the almost 200 regional and village corporations, only twelve are significant participants in government contracting. These twelve receive less than 1% of all federal contracts and less than 17% of all contracts awarded through the 8(a) program. They have still had a huge impact on the Alaskan Native community, employing over 3100 Natives, awarding $22 million in scholarships and donations to programs to preserve their culture and improving the lives of Alaskans in the villages.

This is a good start. However, more Alaska Native Corporations and Indian Tribes from the Lower 48 should be encouraged to participate in the 8(a) program so that their communities can also benefit.

Native participation in the 8(a) program allows the United States to keep its promises to Alaskan Natives and Indian tribes while creating the opportunities they need to create better lives for themselves. It is important that we continue to honor our promises and allow Alaska Natives and Indian Tribes to continue to work to better their lives while maintaining their cultural heritage.

I applaud Chairman Rahall (D-WV) for holding this hearing to discuss diversifying Native economies. I am glad to see that the Natural Resources Committee is exercising its jurisdiction over this important part of National Indian Policy.

The CHAIRMAN. The Chair thanks the gentleman from Alaska as well for his comments, and totally agreed with him.

The Chair will recognize for the record the gentleman from North Carolina, Mr. Heath Shuler is also present. If he has any comments, he is certainly welcome.

STATEMENT OF THE HONORABLE HEATH SHULER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. SHULER. I would like to thank the Chairman and the Ranking Member and Mr. Cole for their statements. We have seen so often, growing up close to the Cherokee Indian Reservation in North Carolina, how difficult the struggles have been for quite some time. We are seeing how some of these policies that we have done that actually have worked, and if we continue to work together within this committee, I do think that we can save it, and I commend both the Ranking Member, Mr. Cole, and the Chairman for their hard work and their continued dedication, that we can work together and we can make a difference in their lives.

Thank you, sir.

The CHAIRMAN. Thank you, Mr. Shuler.

The Chair recognizes the gentlelady from California, Ms. Napolitano.

STATEMENT OF THE HONORABLE GRACE F. NAPOLITANO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Ms. NAPOLITANO. Thank you, Mr. Chair, and it is a pleasure to be here on such an important subject.

Being a minority, we understand many of the perplexities that face minority business and contracting out, and we have been for many years trying to get the Federal government to live up to the Federal mandate of the MWBE, Minority Owned, Women Owned, et cetera, and it has not been easy. In the Small Business Committee, they try to hold them accountable, they try to have them

come in and explain why they can't meet that government mandate, and it is still not anywhere near where it should be.

Somewhere along the line the powers that be don't impress upon some of the agencies the importance of being able to allow minority business to have a piece of the government contact, which is huge, and there is no reason for that other than possibly some of the people are not interested in taking the time to help some of these entities along, and I think it is time that we begin to really scrutinize and have them understand the importance of allowing small business growth so that we don't have to import the groups that come in from outside, from other countries to take over our business and decimate our own economy.

So thank you, Mr. Chair, Mr. Ranking Member. This is of great importance to some of us. Thank you.

The CHAIRMAN. Thank you. We will now turn to our panel, the first of which consists of Dr. Robert Middleton, the Office of Indian Energy and Economic Development, Department of the Interior; Mr. William Largent is Assistant Administrator, Office of Native American Affairs, Small Business Administration; and Ms. Katherine Schinasi, Managing Director, Acquisition and Sourcing Manager, General Accountability Office.

Mr. Largent, I understand that you work on Native policy issues, not the 8[a] contracting program, so your testimony, as I understand, will focus on Native issues, and you will respond to the Committee in writing with any questions that are outside of your issue area, am I correct? Thank you.

Lady and gentlemen, you may proceed. Dr. Middleton, do you want to go first since I introduced you first?

STATEMENT OF ROBERT MIDDLETON, DIRECTOR, OFFICE OF INDIAN ENERGY AND ECONOMIC DEVELOPMENT, U.S. DEPARTMENT OF THE INTERIOR, WASHINGTON, D.C.

Mr. MIDDLETON. I would be pleased to do that.

Good morning, Mr. Chairman and members of the Committee. My name is Bob Middleton. I am Director of the Office of Indian Energy and Economic Development at the Department of the Interior, and I am pleased to be here to deliver the department's statement about diversifying Native economies.

As you are aware, Secretary Kempthorne has implemented two initiatives: one, to promote safe Indian communities, and the second to strengthen educational opportunities for Indian youth. However, Secretary Kempthorne and Assistant Secretary Artman also realize that building sound and foundational Native economies is a key ingredient to achieve the goals of these two initiatives, and they both strongly support our Indian economic development programs.

Without viable economies, jobs, physical stability, any initiative to fight for safe Indian communities and to increase Indian student achievement will have an uphill battle. The efforts to enhance Indian educational levels and graduation rates may be compromised if students are not given the hope of a stable job opportunity and a better life after graduation. A sustainable wage and the ability to allow individuals to support a family are vital to successful Indian communities.

In addition, many of the troubles plaguing reservations, including increases in drug and alcohol abuse, continuing domestic violence, high unemployment rates, are often derived from the lack of meaningful, fulfilling, and life-sustaining work, and work that is located in the local reservation communities.

A strong and diverse Tribal economy also goes to the heart of sovereignty. It is hard to imagine that Tribes could be and feel truly sovereign if they primarily rely on Federal programs to sustain their governments. Economic self-sufficiency will improve with Tribes' ability to achieve self-governance and self-determination.

Now, the Secretary of Interior created my office to develop and implement innovative programs that benefit Native American economies by increasing Tribal business knowledge, increasing the number of successful Indian-owned businesses, increasing capital investment in Indian Country and to provide technical assistance for economic development of their energy and mineral resources.

Now, my programs are achieving these goals by partnering with other Federal agencies, American Indian organizations and tribes, and facilitating economic development opportunities in Indian Country. We also collaborate with private organizations and colleges and universities to provide training and financial services to Indian Country. Using these partnerships, we leverage our existing resources to enhance and strengthen Tribal economies and economic development opportunities.

The 8[a] program has been one of the tools that has been available to us to work with Tribal governments to, in fact, develop and enhance economies out on reservations.

Thank you for the opportunity to participate in this important discussion, and I will be happy to answer any questions you have either now or after the panel concludes.

[The prepared statement of Mr. Middleton follows:]

Statement of Dr. Robert W. Middleton, Director, Office of Indian Energy and Economic Development, Office of the Assistant Secretary—Indian Affairs, U.S. Department of the Interior

Good morning, Mr. Chairman and Members of the Committee. My name is Bob Middleton, and I am the Director of the Office of Indian Energy and Economic Development (IEED) at the Department of the Interior (Department). I am pleased to be here today to deliver the Department's statement about diversifying Native economies.

Strengthening Indian Economies

Without viable economies, jobs, and fiscal stability, any initiatives to fight for safe Indian communities and to increase Indian student achievement will have an uphill battle. The efforts to enhance Indian education levels and graduation rates may be compromised if students are not given the hope of a stable job opportunity after graduation. A sustainable wage and the ability to allow individuals to support a family are vital to successful Indian communities.

It is also likely that any incentive for students to engage in a new education initiative will not be effective if students do not see the possibility of meaningful employment and a better life as an outcome. In addition, many of the troubles plaguing reservations, including the increases in drug and alcohol abuse, continuing domestic violence, and high unemployment rates are often derived from a lack of meaningful, fulfilling, and life-sustaining work opportunities in the local reservation communities.

IEED was created to develop and implement innovative programs that benefit Native American economies. These efforts focus on:

- improving Indian economic development,
- increasing tribal business knowledge,

- increasing jobs and the number of successful small and medium Indian-owned businesses,
- increasing capital investment, and
- providing technical assistance in developing energy and mineral resources.

National Economic Development Summit

In May 2007, the National Summit on Economic Development in Indian Country was held in Phoenix, Arizona. We worked in partnership with other Federal agencies and organizations including the National Congress of American Indians (NCAI), the Affiliated Tribes of Northwest Indians, the Alaska Federation of Natives, the United South and Eastern Tribes, and the Inter Tribal Council of Arizona. The participants provided information on what activities would provide the most economic stimulation for Indian businesses and identified the impediments in technical capabilities, training, capital investment, and infrastructure that are preventing the development of sustainable reservation economies.

The Summit was a huge success with over 500 registered attendees ranging from tribal leaders and individuals, to tribal governments, tribal organizations, federal agencies and private industry.

The Summit examined Native American economic development issues in three areas:

(1) Access to capital and finance;
(2) Improving physical and legal infrastructure; and
(3) Fostering domestic and international business enterprises.

The Summit resulted in a list of economic development impediments identified by the participants and a corresponding list of recommended regulatory and legislative solutions. The information flowing from the Summit sessions was tremendous in volume and more ideas and perspectives are communicated to us daily that need to be incorporated into the list. Accordingly, we are working in conjunction with NCAI on a number of new tasks, including:

- A follow-on discussion about access to capital and finance was conducted on September 4-5, 2007, in Jersey City, New Jersey, sponsored by the Department in conjunction with NCAI and the Native American Finance Officers Association's (NAFOA). This "Wall Street" conference was presented to help tribal leaders and their finance professionals obtain a clarity of vision for the present and future, and continue to preserve and promote sovereignty through strong financial management.
- A follow-on discussion on tribal community comprehensive planning will be jointly hosted by the Department, NCAI, the University of New Mexico (UNM) and Arizona State University (ASU) on October 5-6, 2007, at the ASU campus in Tempe, Arizona. The conference will bring together tribal planners from Arizona and New Mexico, key policy stakeholders, and university planning faculty from the UNM School of Architecture and ASU School of Planning. The conference is considered an important step toward defining comprehensive planning and its role in tribal communities. The conference will be supported by a white paper on the topic.
- A follow-on discussion about tribal legal infrastructure will be jointly hosted by the Department, NCAI and ASU on November 29-30, 2007. Improving the tribal legal infrastructure is critical to creating a business friendly environment and sustaining tribal development, including reform of tribal constitutions and establishing tribal commercial laws to create a business-friendly environment for sustainable tribal development.

Economic Development

IEED is continuing to build upon a successful start and expand programs that are improving the quality of life and communities for American Indians and Alaska Natives. We have taken the initial action to improve economic development by assisting in: (1) building the Indian Country physical and legal infrastructure vibrant economies require; (2) creating new jobs and expanding existing tribal and Indian-owned enterprises; (3) training existing tribal and native business executives; (4) increasing access to capital investments; and (5) providing technical assistance to develop Indian Country's sizeable energy and mineral assets.

• *Build a Strong Legal Infrastructure*

Indian Affairs is working towards a strong legal infrastructure to support economic growth. In 2006, we initiated a tribal commercial law project. We began by funding some of the tribes who had helped develop a model tribal secured transactions law in consultation with the Federal Reserve Bank's Helena, Montana Branch and the National Conference of Commissioners on Uniform State Laws (NCCUSL). To date, the Chippewa Cree Tribe, Crow Nation, the Umatilla Tribes

and the Warm Springs Tribes have enacted various tribal commercial laws, including secured transactions law, in the belief that such laws will aid their reservation economies. To complement the enactment of commercial laws, we funded NCCUSL to develop a curriculum on commercial law to train tribal law administrators. We expect the curriculum to be used in future classes offered to the tribes.

• *Increase Jobs and Businesses*

A great many of Indian Country's 56 million acres of land are abundant in commercially and strategically important minerals and other natural resources. In addition, IEED, through small grants, assisted remote villages in Alaska and the Pribilof Islands in evaluating wind power to supplement expensive diesel fuel. We helped the Laguna Pueblo use local resources to generate power for a tribal electrical utility. In FY 2007, grants were provided to assist: (1) the Cherokee Nation of Oklahoma to develop a hydropower generating plant, (2) the St. Regis Mohawk Tribe to save money and provide cheaper energy to local businesses by developing a hydroelectric power plant, (3) the Passamaquoddy Tribe to take advantage of its coastal location by developing tidal energy, (4) the Coquille Indian Tribe to plan and build a woody biomass generating facility, and (5) the Jicarilla Apache Tribe and San Juan Pueblo to embark upon a joint venture to produce from timber resources fuel wood pellets and select lumber.

We have assisted tribes in formulating long-term, strategic plans to accelerate employment opportunities. In FY 2006-2007, funds were provided for economic planning professionals to work with tribal leaders to identify tribal job creation and enterprise needs based on the unique circumstances of each reservation. Notably, the Ysleta Del Sur Pueblo used this funding to retain successful economic planners from the Winnebago Tribe of Nebraska and the Harvard Project on American Indian Economic Development to identify ways to diversify and resuscitate its moribund economy.

Under its Native American Business Development Institute (NABDI) conceived in FY 2006, IEED has developed partnerships with the Nation's elite business schools to assist tribal businesses in the preparation of business plans, the assessment of financial opportunities, and to enhance their skills in drafting proposals to obtain financing and loan guarantees from private lenders, foundations, and government entities. IEED and the teaching staff of these business schools coordinate with tribes in identifying specific economic development projects. These schools assign a high-performing Masters in Business Administration candidate or candidates, as part of their academic curriculum, to work directly with a tribe to prepare a business plan.

The NABDI helps tribes assess how to expand their role in a market or region, and increase their profitability. Some examples follow and are broken out by fiscal year:

FY 2006:

- Performed a wind energy study for the Inter-Tribal Council on Utility Policy in the Great Plains, and
- Developed a meat processing business plan for the Fort Belknap Indian Community.

FY 2007:

- Helped the Jamestown S'Klallam Tribe analyze the potential of a business park, a security business, and a medical supply business;
- Assisted the Yakama Tribe in expanding employment opportunities in the tribe's timber production;
- Helped the Ft. Peck and Crow Tribes review the potential for new jobs in upland bird hunting;
- Assisted the Ysleta del Sur Pueblo in its desire to create new economic development uses for a dormant tribal wellness/recreation center; and
- Helped the Mescalero Apache Tribe review the potential for new employment opportunities through the installation of a glass-covered greenhouse heated by way of woody biomass.

We are also expanding the Buy-Indian Act efforts, including coordination with other federal agencies to encourage Federal Government-wide purchases of American Indian goods and services. This will increase Indian employment opportunities and revenues for Indian owned firms. Indian Affairs has used the Secretary's Buy-Indian Act authority to expand Departmental purchases of Indian goods and services. In FY 2007, a new performance measure was established to increase by 5 percent the FY 2006 total dollar value of $13.6 million of Indian Affairs government charge card purchases from Buy-Indian vendors of office supplies, followed by a 1

percent increase annually in subsequent Fiscal Years 2008-2011. IEED achieved the 5 percent goal for FY 2007 ($675,000).

Since 1994, Indian Affairs has implemented Pub. L. 102-477 which allows tribes to integrate 10 Federal programs from the Department of Health and Human Services, Department of Labor, and Bureau of Indian Affairs (BIA) into one comprehensive resource for education, training, job placement, welfare reform, child care and related services. The program has been highly acclaimed by tribal leaders, the Congress and independent evaluations. The "477" program has received the highest PART score from the Office of Management and Budget of all American Indian programs in the Department. The "477" program is an effective tool for creating jobs, training and educating tribal members and assisting them in becoming self-sufficient, and promoting economic development. Tribes participating in "477" are more effective in moving people from welfare-to-work and reducing their dependence on public welfare due to the ability of tribes to provide comprehensive consolidated resources.

• *Increase Business Knowledge in Tribal Communities*

To carry out its long-term goal of increasing business knowledge, we have pursued programs to train young Native Americans in entrepreneurship and tribal businessmen on how to avoid common competitive pitfalls, take advantage of federal procurement and Buy-Indian Act opportunities, and expand their businesses. Our goal is to equip hundreds more tribal entrepreneurs and those who aspire to be entrepreneurs with business knowledge that will enhance their prospects of success.

During this fiscal year, we have funded a one-year Entrepreneurial Education pilot project designed for students at five reservation high schools. The pilot project is a collaborative effort with the Bureau of Indian Education (BIE) and the National Foundation for Teaching Entrepreneurship (NFTE). NFTE has developed award-winning text books, teaching plans, and support materials along with a Certified Entrepreneurship Teacher Training Program.

In FY 2006-2007, we also partnered with the top-rated Tuck School of Business at Dartmouth College to provide a series of intensive training workshops for executives of Native American businesses that focus on developing and improving business management skills; establishing and running a business; maintaining accounting records; assessing performance; creating high-performing enterprises; and expanding existing operations. In fact, members of my staff are assisting with one of these workshops this week in Fort Yates, North Dakota near the Standing Rock Sioux reservation. These training sessions receive uniform praise from participants. We will also augment the number of business training sessions conducted by distinguished business school academics for American Indian businesses.

We are also working with tribes to expand business opportunities through the 8(a) program within the Small Business Administration (SBA). As part of the process, IEED is encouraging tribal leaders, where appropriate, to begin the process of applying for tribal 8(a) status, and offering to connect the tribe with 8(a) experts if the tribe is interested in using a consultant to aid them in this process. We offer guidance to tribal businesses seeking Federal, Commercial and Tribal opportunities, and we help facilitate Mentor/Protégé relationships with the SBA, the Department of Defense or other appropriate Federal agencies during the 8(a) application process.

We are currently working with the BIA Procurement Division and the Division of Policy and Planning to explore policies that will increase the use of Tribal 8(a) businesses. In addition, IEED is also working with the General Services Administration to develop a tracking system of contracts awarded to Tribal 8(a)s and Alaska Native Corporations.

IEED continues to partner with SBA to present Regional Procurement Workshops to provide training on the 8(a) and other Small Business Programs which include the following highlights:

- The background of 8(a), the purpose of 8(a), how tribes can use 8(a) in business planning, the difference between individual 8(a) and tribal 8(a), and information about how to apply for tribal 8(a) status.
- One-on-one meetings with SBA staff and tribal economic planners during workshops for more in-depth discussions about individual tribe's 8(a) potential.
- Work with SBA and other appropriate Federal agencies to pursue sub-contracting opportunities both during the application process and once 8(a) status has been approved.
- Serve as liaison with the Department's Office of Small and Disadvantaged Business Utilization and other Federal agency small business programs to identify projects that will enhance tribal procurement opportunities including planning, policies, training, and development of outreach materials for procurement personnel.

• *Increase Access to Capital Investment*

Part of our mission is to help tribal communities develop viable business enterprises and foster sustainable economic growth. Our Division of Capital Investment offers assistance predominantly through programs established under the Indian Financing Act of 1974, as amended. We seek parity in accessing capital and sustainable economic growth between Indian and non-Indian communities.

We operate the Loan Guaranty, Insurance, and Interest Subsidy Program, 25 U.S.C. § 1481 et seq. and 25 CFR Part 103 ("Program"). This Program offers private lenders Federal guarantees and insurance to cover the risk that a loan made to an American Indian-owned business will not be repaid in full or on time. By enhancing loan security in this manner, the Program enables lenders to make loans that they otherwise would not make and the opportunity to offer loan terms substantially better than what they would offer absent the Program guaranty or insurance.

This Program leverages appropriated funds in a significant way. For example, in FY 2006, from the $6.25 million appropriated for the Loan Guaranty, Insurance and Interest Subsidy Program, the Program was able to guarantee about $108 million in loans to American Indian owned businesses and administer the program. In addition, we maintained a loss percentage of less than 2 percent.

We are currently writing regulations to implement changes to the Indian Financing Act from Title IV of the Native American Technical Corrections Act of 2006 ("Act"). We are using this opportunity to make other changes to the Loan Guaranty, Insurance, and Interest Subsidy Program regulations as well, both to reflect changes under the Act and to improve management of the loan guarantee program.

• *Development of Energy and Mineral Assets*

Absent the gaming and timber industries, the development of energy and mineral resources provides the best economic development opportunities for many tribes. In FY 2006, alone, these resources generated $579 million in royalty revenue paid to Indian individuals and tribes. We estimate that about 25 percent of Indian and tribal lands contain undeveloped energy and mineral resources. The Department's goal is to help tribes gain access to these energy and non-energy mineral resources while ensuring the responsible use of lands that are developed.

In consultation with tribes, we provide ongoing assistance in the exploration and development of over 2 million acres of actively producing energy and mineral leases. This activity includes the collection of resource assessment data, feasibility studies, market analyses and other resource development initiatives, as well as overseeing leasehold agreements of oil, gas, coal and industrial mineral deposits located on Indian lands for the benefit of tribes and individual Indian owners. Through collection and analysis of exploration data we help tribes and individual Indian landowners with the assessment of their energy and mineral resources to determine the potential value of their lands for leasing purposes and assist in resource development planning. Information about land status and the activities that impact this status is a key component in effective decision-making.

We also provide timely information, economic analysis, recommendations, and support to tribes during the negotiation and approval phases of the Mineral Development Agreements as authorized under the Indian Mineral Development Act of 1982. We also provide monetary grants through our Energy and Mineral Development Program to allow tribes to evaluate energy and mineral resource potential through the acquisition of exploratory data and geotechnical data interpretation. Program funds also support the development of computer-based systems to make this information readily accessible to the Indian mineral owner. By providing this type of information to the Indian energy and mineral owner before negotiations with developers begin, we greatly enhance the ability of the tribe to maximize income from the development of their resources. As a result, requests for assistance from tribes to determine their energy and mineral resources development potential continue to increase.

We sponsor national and regional conferences on energy and mineral development opportunities in Indian Country. This outreach program helps to stimulate industry interest in pursuing economic development opportunities for Alaska Natives and on Indian reservations. It provides a forum for tribes and Alaska Natives interested in considering energy and mineral proposals, publishes geotechnical data on mineral resources on American Indian trust lands, and discusses the positive effects of doing business on American Indian lands.

The successful development of energy and non-energy mineral resources creates many long-term career level jobs for American Indians and Alaska Natives, provides sustainable, supplemental funding streams for tribal government operations and improves the overall quality of life within reservation communities.

Conclusion

We will continue to partner with the tribes, other Federal agencies, and American Indian organizations to facilitate economic development opportunities in Indian Country. We will also seek ways to leverage our existing appropriations to maximize benefits to enhance and strengthen tribal economies and economic development opportunities. Thank you for holding this hearing on diversifying Native economies. I will be happy to answer any questions you may have.

STATEMENT OF WILLIAM H. LARGENT, ASSISTANT ADMINISTRATOR, OFFICE OF NATIVE AMERICAN AFFAIRS, U.S. SMALL BUSINESS ADMINISTRATION, WASHINGTON, D.C.

Mr. LARGENT. Chairman Rahall, Ranking Member Cole, Distinguished Members of the Committee, thank you for inviting me here today to discuss diversifying native economies and the Small Business Administration's efforts along these lines.

My name is Bill Largent. I am the Assistant Administrator of the Small Business Administration's Office of Native American Affairs. The Office of Native American Affairs' goal is to promote and support economic activities for Native Americans, Alaska Natives, and Native Hawaiian business development. We engage in numerous activities, including tribal consultations and development and participating in national economic development conferences.

Since the Office of Native American Affairs is not the program office responsible for administering the 8[a] program, I will limit my discussion of the program to a brief overview of 8[a], its history, and comment briefly on the April 2006 Government Accountability Office report concerning Alaska Native Corporation's use of the 8[a] program. I will also address other issues and projects important to enhancing and diversifying Native economies that the Office of Native American Affairs is working on.

Before I talk about what the office is doing with respect to economic development and business ownership, it might be helpful for the Committee to know a little about me. I was appointed to the position of Assistant Administrator in February of last year. I am a member of the Keweenaw Bay Indian Community, Lake Superior Band of Chippewa, Martin Clan in Michigan's Upper Peninsula.

I started my first business on the reservation in 1976. It was not sophisticated or high tech, but a small commercial janitorial service that allowed me to support myself and my family. After I started the company, members of my Tribe and even family members often asked me how it was I knew how to start a business and what made me believe I could own and run a business.

I tell you this to make a simple point. In 1976, the concept of owning and running businesses was unfamiliar to my people. Since then, Tribes have increased their focus in economic development and job creation. However, there is more to do, especially for potential small business owners, and that is where the SBA and the agency's Office of Native American Affairs comes in.

For the moment, let me shift my attention to the 8[a] program. The 8[a] program was enacted during the 1960s, to assist eligible small, disadvantaged business concerns to compete in the American economy through business development. The Small Business Act authorizes SBA to develop business ownership programs for people

whose ability to compete in the free enterprise system have been impaired due to diminished credit and capital opportunities.

Alaska Native Corporations, Native Hawaiian Organizations, Community Development Corporations, and Tribally owned 8[a] firms are deemed by statute to be socially and economically disadvantaged. The primary difference between ANC-owned 8[a] firms and non-ANC-owned firms lies in the intent of their participation in the program. The 8[a] program's design anticipates that organization-owned firms, including ANCs, will utilize the program to provide economic development to the respective communities.

I must emphasize that as the law is currently written the 8[a] program is simultaneously providing business development programs to disadvantaged individuals while also providing regional or community economic development to organization-owned firms, including ANCs.

In April of 2006, the Government Accountability Office published a report entitled "Increased Use of Alaskan Native Corporation's Special 8[a] Provisions" called for tailored oversight to address some of the differences I just mentioned. The report notes that Federal contract dollars awarded to firms owned by ANCs grew from 265 million in Fiscal Year 2001 to 1.1 billion in Fiscal Year 2004.

The SBA takes it oversight responsibility over Federal procurements very seriously. Even before the release of the GAO report, the agency had taken a number of steps to improve the oversight of the 8[a] concerns owned and controlled by ANCs, Native Hawaiian Organizations, and Indian Tribes, and the agency has continued to look at ways to strengthen the program and increase SBA's oversight capabilities.

While the Office of Government Contracting and Business Development is working with the Federal agencies, the President has tasked my office, the Office of Native American Affairs, to host tribal consultations to allow Tribes to provide insight into how the SBA can better manage the programs and address concerns.

As I mentioned earlier in my testimony, when I started my first business there was a lack of awareness of business principles. I saw much of the same situation through my work as a board member of the Native American Business Alliance. When NABA expanded its mission to include businesses located on reservations, both tribally owned and individual entrepreneurs, I was asked to travel to Indian Country to determine the interested tribes and the best method for representing those interests. It was during this period that I came to fully appreciate the unenviable position of Tribal leaders for identifying, creating, and running the economic engines that create jobs and revenue streams without the basic resources available to virtually every other government in the United States.

The key barriers to success are more than just remote locations, lack of capital, absence of internet or even basic utilities, these are substantial hurtles, but the unawareness of how business is conducted, the speed, competitiveness, demand and measures of quality are little understood or even discussed.

The unique nature of Native governance and culture makes business creation in Indian Country especially challenging. Because of this, I have come to the realization that what Indian Country

needs is a tool that will prove a comprehensive checklist, an assessment of inventory of assets, so the decisionmakers can pursue businesses that are consistent with their unique governance, culture, vision, internal capabilities and the resources available to them.

To assist business development in Indian Country, it envisioned a web-based system that will be available to anyone with internet access though we also anticipate that hard copy will be utilized in some areas. The tool is being developed by the Office of Native American Affairs with the help of over 25 well-respected volunteer private sector attorneys, economists, Tribal leaders, small and large business people of Native descent who are well versed in Indian issues.

It is important to note that the tool will not be a magic box. It will not solve problems, nor will it recommend specific solutions. It will only reflect the value, culture, and strengths and weakness of the communities that utilize it.

While the Office of Native American Affairs has other responsibilities, the Tribal self-assessment tool is our priority. The goal is to provide decisionmaking tools that will enable tribes to create a positive business environment where they can compete effectively in the private sector.

After a business environment that fits the Tribe's culture has been developed, other SBA programs, such as our loan programs and technical assistance, will be of greater value.

Again, thank you for inviting me to testify on this important subject. I will be happy to address questions you might have about how the Office of Native American Affairs works.

[The prepared statement of Mr. Largent follows:]

Statement of Bill Largent, Assistant Administrator, Office of Native American Affairs, Small Business Administration

Chairman Rahall, Ranking Member Young, distinguished members of the Committee, thank you for inviting me here today to discuss "Diversifying Native Economies" and the Small Business Administration's efforts along these lines.

My name is Bill Largent and I am the Assistant Administrator of the Small Business Administration (SBA) Office of Native American Affairs. The Office of Native American Affairs' goal is to promote and support economic activities for Native Americans, Native Alaskans, and Native Hawaiian entrepreneurs. We engage in numerous activities including tribal consultations, developing tools to support economic development and participating in national economic development conferences. Other offices within SBA oversee loan programs, individual entrepreneurial training opportunities and business development and government contracting programs.

Since the Office of Native American Affairs (ONAA) is not the program office responsible for administering the 8(a), I will limit my discussion of the program to a brief overview of 8(a) and comment briefly on the April 2006 GAO report concerning Alaska Native Corporations' use of the 8(a) program. I will also address other issues and projects important to enhancing and diversifying native economies that ONAA is working on.

Before I talk about what ONAA is doing with respect to economic development and business ownership it might be helpful for the Committee to know a little about my own experiences. I was appointed to the position of Assistant Administrator of the Office of Native American Affairs in February of last year. I am a member of the Keweenaw Bay Indian Community, Lake Superior Band of Chippewa, Marten clan in Michigan's Upper Peninsula. I started my first business on the Reservation in 1976. My business was not sophisticated or high tech, but a small commercial janitorial service that allowed me to support myself and my family.

When we started it was just me and my partner but it grew to 15 employees doing commercial janitorial, carpet cleaning, and fire restoration along with equipment and supply sales. I sold it in 1986 and moved to Detroit where I continued my entrepreneurial endeavors in various fields of business.

After I started my first company, members of my Tribe and even family members often asked me how I knew how to start a business and what made me believe I could own and run a business. I tell you this to make a simple point. In 1976 the concept of owning and running businesses was unfamiliar to my people, and Keweenaw Bay is not, and was not then, entirely isolated. Since then the Tribes are much more aware of the value of sustainable economic development. However, there is more to do, especially for potential small business owners, and that is where the SBA and the Agency's Office of Native American Affairs come in.

The 8(a) Business Development Program

Since the Committee has specifically expressed an interest in the SBA's 8(a) Business Development Program or the 8(a) program, as it is commonly known, I will begin with a quick overview of that program. The 8(a) program was enacted during the 1960s to assist eligible small disadvantaged business concerns to compete in the American economy through business development. The Small Business Act authorizes SBA to develop business ownership programs for people whose ability to compete in the free enterprise system has been impaired due to diminished credit and capital opportunities. Individual applicants must demonstrate social and economic disadvantage. Although some groups are presumed to be socially disadvantaged, they, as well as all other applicants, must also demonstrate economic disadvantage. Alaskan Native Corporations (ANCs), Native Hawaiian Organizations (NHOs), Community Development Corporations (CDCs) and Tribally-owned 8(a) firms are deemed by statute to be socially and economically disadvantaged. In addition, all U.S. citizens who can demonstrate social and economic disadvantage as well as compliance with the other eligibility requirements are welcome to apply for participation in the 8(a) program. Besides the management and technical assistance provided under the program, firms that are certified for 8(a) program participation may be eligible to receive contracts that Federal Agencies offer to SBA for the 8(a) program through either sole source or restricted competition.

In 1986, Congress enacted legislation that allowed ANCs, NHOs, CDCs and Tribally-owned firms to participate in the 8(a) program. Congress intended this legislation to foster economic development to these respective communities.

Under the Alaska Native Claims Settlement Act, Congress extended certain procurement advantages to 8(a) ANC firms, such as the ability to win sole-source contracts for any dollar amount. In comparison, non ANC-owned 8(a) firms can receive sole-source contracts for up to $5 million for manufacturing or $3 million for all other contracts; contracts above those amounts must be competed.

Additionally, for non-ANC 8(a) firms, procurements must be competed whenever possible before being accepted on a sole-source basis while for ANC-owned 8(a) firms, procurements need not be competed before being accepted on a sole-source basis. Another way ANC-owned firms differ from non-ANC 8(a) firms: there is no limit on the number of firms an ANC 8(a) participant may own as long as each business is in a different primary industry. Moreover, the president or CEO of a non-ANC 8(a) must be a disadvantaged individual, whereas the management of an ANC-owned 8(a) firm need not be a disadvantaged individual.

The primary difference between ANC-owned 8(a) firms and non ANC-owned firms lies in the intent of their participation in the 8(a) program. The 8(a) program design anticipates that organization owned firms, including ANCs, will utilize the program to provide economic development to their respective communities. All other 8(a) participant firms utilize the program to receive individual business development, as was the initial intent of Congress. Again, I must emphasize that as the law is currently written, the 8(a) program is simultaneously providing a business development program to disadvantaged individuals while also providing regional or community economic development to organization owned firms including ANCs.

In April 2006 GAO published a report entitled "Increased Use of Alaska Native Corporations' Special 8(a) Provisions Call for Tailored Oversight" to addresses some of the differences I just mentioned. The report notes that Federal contract dollars awarded to firms owned by ANCs grew from $265 million in Fiscal Year 2001 to $1.1 billion in Fiscal Year 2004. While there is no indication within this report of wrongdoing by any participants in this program, the report did find that ANCs are increasingly utilizing the special advantages Congress has provided them. The report also found that contracting officers often need guidance on how to effectively use the program to ensure taxpayer dollars are spent wisely, and SBA could make improvements to its oversight of the program.

Also, significant increases in Federal contract dollars went to other groups during the same period of time. From Fiscal Year 2001 to Fiscal Year 2004, contract awards to women-owned small business grew from $5.5 billion to $9.1 billion, service-disabled veteran-small businesses grew from $554 million to $1.2 billion,

HUBZone firms grew from $1.6 billion to $4.8 billion, and overall small business grew from $50.1 billion to $69.2 billion. The Federal Government achieved its goal during Fiscal Year 2003 and Fiscal Year 2004 that 23 percent of its prime contracting dollars were awarded to businesses that qualified as small businesses, including ANCs. Although there is a small disadvantaged business contracting goal which includes the 8(a) program; there is no separate goal for 8(a). However, in Fiscal Year 2004, 8(a) firms were awarded $8.4 billion of the SDB achievement of $18.5 billion.

SBA takes its oversight responsibility over Federal procurement programs very seriously. Even before the release of the GAO Report, the Agency had taken a number of steps to improve the oversight of the 8(a) concerns owned and controlled by ANCs, NHOs, and Indian Tribes and the Agency has continued to look at ways to strengthen the program and increase SBA's oversight capabilities. For instance, the Agency is exploring possible additions to the Business Development Management Information System (BD-MIS) being built to electronically manage all aspects of the 8(a) operations. SBA's efforts also include addressing the staffing levels in the Alaska district office.

Additionally, SBA's Office of Government Contracting and Business Development has been holding meetings with all Agencies to discuss our concerns with Partnership Agreements, which delegate 8(a) contracting authority from SBA to various Federal procuring agencies, to clarify their roles and responsibilities for monitoring contract compliance of and performance by 8(a) firms. SBA has also increased training to field staff responsible for working on 8(a) issues and created a roundtable with the seven largest contracting Agencies to specifically discuss ANC and 8(a) issues.

Office of Native American Affairs and Native American Economic Development

While the Office of Government Contracting and Business Development is working with Federal Agencies, the President has tasked SBA-ONAA (through Executive Order 13175) to host tribal consultations to allow tribes to provide insight into how SBA can better manage the program and address concerns.

As I mentioned earlier in my testimony, when I started my first business there was a lack of awareness of business principles. I saw much of the same situation through my work as a Board Member of the Native American Business Alliance (NABA). When NABA expanded its mission to include businesses located on reservations, both tribally owned and individual entrepreneurs, I was asked to travel to Indian Country to determine the interest of tribes and the best method for representing their interest. It was during this period that I had come to fully appreciate the unenviable position of Tribal Leaders for identifying, creating and running the economic engines that would create jobs and revenue streams, without the basic resources available to virtually every other government in the United States.

Traveling around Indian Country, I came to understand that much if not most of Indian Country was not ready to be in business. The key barriers to success are more than just remote locations, lack of capital, absence of Internet, or even basic utilities, but an unawareness of how business is conducted. The speed, competitiveness, demand and measures of quality are little understood or even discussed.

The unique nature of the Native governance and culture make business creation in Indian Country especially challenging. Because of this I came to the realization that what Indian Country needs is a tool that will provide a comprehensive checklist, assessment and inventory of assets so that decision makers can pursue businesses that are consistent with their unique governance, culture, vision, internal capabilities and resources available to them.

To assist business development in Indian Country I envision a web-based system that will be available to anyone with internet access, though we anticipate that hard copies will be utilized in some areas. This tool is being developed by ONAA with the help of over 25 well respected volunteer private sector attorneys, economists, Tribal leaders and small and large businesspersons of Native descent who are well versed in Indian issues.

Topics in the tool range from the highly technical to the practical, including issues such as:

- Constitutional reform,
- Development of judicial codes,
- The role of government in business,
- Inventorying assets and resources such as hard assets, natural resources, workforce education and skill,
- Assessing relationships with states, local governments, non-tribal members, tribal members living off the reservation,

- Assessing how business practices like hiring, bereavement, compensation and decision making work within the Tribal way of life,
- How does expanding a business economy impact traditional culture,
- Assessing organizational, physical and technical infrastructure.

It is important to note that the tool will not be a magic box, nor will it recommend specific solutions. It will only reflect the value, culture, strengths and weaknesses of the communities that utilize it. Whether it is gaming or other tourism and entertainment endeavors, manufacturing, technology, natural resources, energy or alternative energy, retail or building entrepreneurial environments, the decision is theirs.

While ONAA has other responsibilities and numerous other initiatives, projects and ad hoc tasks the Tribal self assessment tool is our priority. The goal is to provide decision making tools that will enable Tribes to create a positive business environment where they can compete effectively in the private sector. After basic assessments have been made and a business environment that fits the Tribe's culture has been developed, issues such as the SBA loan guarantee programs and entrepreneurial technical assistance will be of greater value. This is why ONAA believes that focusing on providing the basics through the self assessment tool is the first, and most important, course of action in developing, enhancing and diversifying Native economies.

Again, thank you for inviting me to testify on this important subject. I will be happy to address questions you might have about ONAA's work.

The CHAIRMAN. Thank you. Ms. Schinasi. I hope I pronounced it correctly.

Ms. SCHINASI. Pardon me?

The CHAIRMAN. I hope I pronounced your name correctly.

Ms. SCHINASI. That was perfect. Thank you. And unusual.

[Laughter.]

STATEMENT OF KATHERINE V. SCHINASI, MANAGING DIRECTOR, ACQUISITION AND SOURCING MANAGEMENT, U.S. GOVERNMENT ACCOUNTABILITY OFFICE, WASHINGTON, D.C.

Ms. SCHINASI. Thank you for inviting me today to testify on our prior work on Alaska Native participation in the Small Business Administration's 8[a] business development program.

With your permission, I would like to put my full statement in the record and summarize it right now.

The CHAIRMAN. Without objection.

Ms. SCHINASI. As you know, the 8[a] program is one of the Federal government's primary mechanisms for developing small businesses owned by socially and economically disadvantaged individuals, and Congress has extended additional procurement advantages to ANC firms participating in the 8[a] program, the most significant of these is the ability to receive sole source contracts for any amount, and the ability of the Alaska Native Corporations to create numerous subsidiaries to receive government contracts.

My statement today focuses on the findings and recommendations we made in an April 2006 report. Because of the scope of our work, we offer observations neither in support of nor challenge to the program itself. Rather, we evaluated the trends in 8[a] ANC contracting, how ANCs are using the 8[a] program, and the facts and circumstances behind the award of a sample of large sole source contracts.

We made a number of recommendations and my statement today also includes information on actions that SBA and the procuring

agencies are taking or plan to take to address our recommendations for improved oversight.

It is important to point out that management of this program is a shared responsibility among government agencies as SBA has delegated the contract execution function to Federal procuring agencies through its partnership agreements. SBA, however, remains primarily responsible for implementing the 8[a] program.

Let me start with some trends. By one measure, Mr. Chairman, as you said, 8[a] ANC contracting continues to represent a very small amount of total Federal procurement spending. However, as Mr. Largent pointed out, the contracts awarded to the 8[a] ANCs increased four-fold over the five-year period that was in the scope of our review—That is 2000 to 2004—growing from $265 million to $1.1 billion.

Dollars obligated under sole source contracts to the 8[a] ANC firms during that period from the six agencies in our sample also increased from about $180 million in 2000 to about $876 million in 2004, which represented about 77 percent of the 8[a] contracts awarded to ANCs over that period by the agencies in our sample.

Another trend that we noted was the increasing complexity of the corporations' business arrangements, including use of subsidiaries. In 1998, one ANC owned one subsidiary. By 2005, 49 ANCs owned 154 subsidiaries.

We found that the Alaska Native Corporations were using the 8[a] program in a variety of ways. Our GAO team traveled to Alaska and met with representatives of 30 village and regional corporations of various sizes who were engaged in a wide variety of business activities, and used various business models, including some that did not participate in the 8[a] program at all.

We found for the ANCs that do participate in the 8[a] program some are heavily reliant on the program to generate revenues for the benefit of their shareholders, while others approach it as one of many revenue-generating opportunities that also include investments in stocks or real estate.

We also looked at the facts and circumstances behind the award of 16 large sole source contracts awarded to 8[a] ANC firms by seven Federal agencies. These covered a wide range of services, such as facility support services in the U.S. and overseas, training and equipping security guards in Iraq, detention facility operation support, and information technology services. The contracts that we reviewed ranged in value from $11 million to almost $600 million.

As you know, Alaska Native Corporations in the 8[a] may be awarded sole source contracts without regard to dollar thresholds, which contrasts with the thresholds that have been established for sole source awards to other 8[a] firms, and the preference for competition in structuring most other government contract awards.

Our review found that agency officials view contracting with 8[a] ANC firms as a quick, easy and legal way to award contracts while at the same time helping their agencies meet the small business goals. In several cases agency official stated that they turn to 8[a] ANC firms because they do not have the time nor the people needed to structure competitive awards.

Let me say now a few words about the oversight of the program. When we looked, we found shortcomings in both the procuring agencies and in SBA regarding their management of the program. Some of these shortfalls stem from the very nature of the complex business arrangements that the ANC 8[a] firms are involved in.

For example, SBA was not tracking subsidiary participation in secondary industry codes to ensure that only one subsidiary of an ANC generate most of its revenue as is required. In other cases, agency contracting officers believed that SBA had responsibility for actions that SBA relied on the agencies to undertake. This was true, for example, in monitoring compliance with the Federal Acquisition Regulation limitation on subcontracting clause which requires 50 percent of personnel costs to be maintained by the prime contractor.

With respect to SBA itself, we found that the agency had not tailored its policies and practices to account for the ANCs unique status and rapid growth in the 8[a] program. SBA officials told us they face a challenge in this regard. They noted that the goal of ANCs, which is economic development for Alaska Natives from a community standpoint, is not always consistent with the primary purpose of the larger 8[a] program, which is business development for individual small disadvantaged businesses.

We made a number of recommendations to SBA on actions that can be taken to revise regulation and policy as well as to improve their oversight practices. At the time of our review, SBA officials stated that they were planning to revise their regulations and policies to address the ANCs unique status in the 8[a] program. They have not yet done so.

However, the agency has taken actions to implement one of the recommendations, which is to revise its partnership agreements with the procuring agencies to emphasize that it is the procuring agency's responsibility to monitor compliance with such things as the limitations on subcontracting. SBA has also instituted training for its own personnel and for those in the procuring agencies.

Also during the time of our review, SBA indicated that a new automated data collection tool would help them more readily collect information on 8[a] firms, and thereby help their monitoring efforts. The system was expected to be operational during this fiscal year. Although that could be helpful to SBA, I would also note that GAO's work has shown that upgrading the technology and management information systems is useful only when the underlying management policies and practices work well.

We also recommended that the procuring agencies in our review work with SBA to develop guidance for contracting officers on how to comply with requirements of the 8[a] program, in particular, when contracting with ANC firms. Most of the agencies have begun to address this recommendation.

We will continue to follow up on agency actions to implement our recommendations. Until strong oversight is in place, there is a potential for abuse and unintended consequences.

Mr. Chairman, that concludes my summary, and I would be happy to answer any questions you or the members have.

[The prepared statement of Ms. Schinasi follows:]

Statement of Katherine V. Schinasi, Managing Director, Acquisition and Sourcing Management, United States Government Accountability Office

Mr. Chairman and Members of the Committee:

I am pleased to be here today to discuss our April 2006 report on Alaska Native Corporation (ANC) 8(a) firms.[1] In December 1971, Congress enacted the Alaska Native Claims Settlement Act to resolve long-standing aboriginal land claims and to foster economic development for Alaska Natives. This legislation created ANCs, which would become the vehicle for distributing land and monetary benefits to Alaska Natives in lieu of a reservation system. As of December 2005, there were 13 regional ANCs and 182 village, urban, and group corporations.

In 1986, legislation was enacted that allowed ANC-owned firms to participate in the Small Business Administration's (SBA) 8(a) program—one of the federal government's primary means for developing small businesses owned by socially and economically disadvantaged individuals. Since then, Congress has extended special procurement advantages to ANC firms. For example, ANC firms are permitted to receive noncompetitive contracts for any amount, whereas other 8(a) companies are subject to competitive thresholds of $5 million for manufacturing contracts or $3 million for all other contracts. ANCs can also own multiple subsidiaries participating in the 8(a) program,[2] unlike other 8(a) firms that may own only one in a lifetime and no more than 20 percent of another 8(a) firm.

Our 2006 report on 8(a) ANC contracting identified (1) trends in contracting with ANC firms, (2) the reasons agencies have awarded 8(a) sole-source contracts to ANC firms and the facts and circumstances behind some of these contracts, and (3) how ANCs are using the 8(a) program. We also evaluated SBA's oversight of 8(a) ANC firms. We made a number of recommendations to SBA and also recommended that the agencies in our review work with SBA to develop training for their contracting personnel.

Today I will discuss the highlights of our report and provide an update on actions SBA and the other agencies have taken to address our recommendations.

To address the objectives of our 2006 report, we obtained data on federal 8(a) contracting with ANCs. It is important to note that there is no readily available central source of information on ANC 8(a) contracting activity. We obtained each ANC firm's Data Universal Numbering System (DUNS) number and used this information to obtain data from the Federal Procurement Data System (FPDS) and agencies. To assess the reliability of the procurement data, we (1) compared FPDS and agency data to verify its accuracy, (2) reviewed related documentation, including contract files, and (3) worked closely with agency officials to identify and resolve any data problems. When we found discrepancies, we brought them to the agency's attention and worked with them to correct the discrepancies before conducting our analyses. We also analyzed 16 large, sole-source 8(a) contracts awarded to ANC firms from the departments of Defense, Energy, the Interior, State, Transportation, and Homeland Security and the National Aeronautics and Space Administration (NASA). We selected the contracts based on high ultimate award values and high dollar obligations that represented a variety of contractors and services. We traveled to Alaska and met with executives of 13 regional ANCs and 17 village or urban corporations. The report on which this testimony is based was prepared in accordance with generally accepted government auditing standards.

Our work did not include within its scope an objective or analyses that either support or challenge special ANC advantages within the 8(a) program. The program has been established in law and any changes are up to the Congress.

ANC Trends in and Use of 8(a) Contracting

8(a) ANC contracting represents a small amount of total federal procurement spending. However, dollars obligated to ANC firms through the 8(a) program grew from $265 million in Fiscal Year 2000 to $1.1 billion in 2004. Overall, during the 5-year period, the government obligated $4.6 billion to ANC firms, of which $2.9 billion, or 63 percent, went through the 8(a) program.

During this period, six federal agencies—the departments of Defense, Energy, the Interior, State, and Transportation and NASA—accounted for almost 85 percent of total 8(a) ANC obligations. Obligations for 8(a) sole- source contracts by these agencies to ANC firms increased from about $180 million in Fiscal Year 2000 to about $876 million in Fiscal Year 2004.

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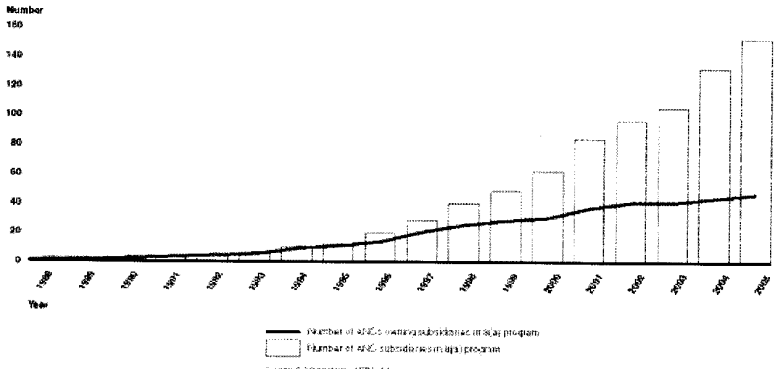
[1] GAO, *Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight,* GAO-06-399, (Washington, D.C.: Apr. 27, 2006).

[2] Each 8(a) ANC firm must be in a different primary industry.

ANCs use the 8(a) program as one of many tools to generate revenue with the goal of benefiting their shareholders. Some ANCs are heavily reliant on the 8(a) program for revenues, while others approach the program as one of many revenue-generating opportunities, such as investments in stocks or real estate. ANCs are using the congressionally authorized advantages afforded to them, such as ownership of multiple 8(a) subsidiaries,[3] sometimes in diversified lines of business. From Fiscal Year 1988 to 2005, numbers increased from one 8(a) subsidiary owned by one ANC to 154 subsidiaries owned by 49 ANCs. Figure 1 shows the recent growth in ANCs' 8(a) subsidiaries.

Figure 1: Number of ANC Parent Corporations and Subsidiaries Active in the 8(a) Program, 1988 to 2005



ANCs use their ability to own multiple businesses in the 8(a) program, as allowed by law, in different ways. For example, some ANCs

- create a second subsidiary in anticipation of winning follow-on work from one of their graduating subsidiaries;[4]
- wholly own their 8(a) subsidiaries, while others invest in partially-owned subsidiaries; and
- diversify their subsidiaries' capabilities to increase opportunities to win government contracts in various industries.

Contract Execution Shortfalls

Our review of 16 large sole-source contracts awarded by 7 agencies found that agency officials view contracting with 8(a) ANC firms as a quick, easy, and legal way to award contracts while at the same time helping their agencies meet small business goals.[5]

Memoranda of Understanding (partnership agreements) between SBA and agencies delegate the contract execution function to federal agencies, although SBA remains responsible for implementing the 8(a) program. We found that contracting officials had not always complied with requirements to notify SBA when modifying contracts, such as increasing the scope of work or the dollar value, and to monitor the percentage of the work performed by the 8(a) firms versus their subcontractors. For example:

- Federal regulation requires that when 8(a) firms subcontract under an 8(a) service contract, they incur at least 50 percent of the personnel costs with their own employees.[6] The purpose of this provision, which limits the amount of work that can be performed by the subcontractor, is to ensure that small businesses do not pass along the benefits of their contracts to their subcontractors. For the 16 files we reviewed, we found almost no evidence that the agencies are effectively monitoring compliance with this requirement. In general, the contracting officers we spoke with were confused about whose responsibility it is.

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[3] In this testimony, "ANC" refers to the parent corporation. The term "ANC firm" denotes a business owned by an ANC. We use the term "ANC firm" and "subsidiary" interchangeably.

[4] There is a 9-year limit to participation in the 8(a) program; firms could graduate earlier if they outgrow their primary industry size standards.

[5] ANC firms in the 8(a) program are deemed by law as socially and economically disadvantaged. Awards to these firms are credited to agencies' small business goals.

[6] For general construction, the 8(a) firm is required to incur at least 15 percent of the personnel costs.

- Agencies are also required to notify SBA of all 8(a) contract awards, modifications, and exercised options where the contract execution function has been delegated to the agencies in the partnership agreements. We found that not all contracting officers were doing so. In one case, the Department of Energy contracting officer had broadened the scope of a contract a year after award, adding 10 additional lines of business that almost tripled the value of the contract. These changes were not coordinated with SBA.

SBA Lacks Oversight of 8(a) ANC Activity

We reported in 2006 that SBA had not tailored its policies and practices to account for ANCs' unique status and growth in the 8(a) program, even though officials recognize that ANC firms enter into more complex business relationships than other 8(a) participants. SBA officials told us that they have faced a challenge in overseeing the activity of the 8(a) ANC firms because ANCs' charter under the Alaska Native Claims Settlement Act is not always consistent with the business development intent of the 8(a) program. The officials noted that the goal of ANCs—economic development for Alaska Natives from a community standpoint—can be in conflict with the primary purpose of the 8(a) program, which is business development for individual small, disadvantaged businesses.

SBA's oversight fell short in that it did not:

- track the primary business industries in which ANC subsidiaries had 8(a) contracts to ensure that more than one subsidiary of the same ANC was not generating the majority of its revenue under the same primary industry code;
- consistently determine whether other small businesses were losing contracting opportunities when large sole-source contracts were awarded to 8(a) ANC firms;
- adhere to a statutory and regulatory requirement to ascertain whether 8(a) ANC firms, when entering the 8(a) program or for each contract award, had, or were likely to obtain, a substantial unfair competitive advantage within an industry; [7] ensure that partnerships between 8(a) ANC firms and large firms were functioning in the way they were intended under the 8(a) program; and
- maintain information on ANC 8(a) activity.

SBA officials from the Alaska district office had reported to headquarters that the makeup of their 8(a) portfolio was challenging and required more contracting knowledge and business savvy than usual because the majority of the firms they oversee are owned by ANCs and tribal entities. The officials commented that these firms tend to pursue complex business relationships and tend to be awarded large and often complex contracts. We found that the district office officials were having difficulty managing their large volume and the unique type of work in their 8(a) portfolio. When we began our review, SBA headquarters officials responsible for overseeing the 8(a) program did not seem aware of the growth in the ANC 8(a) portfolio and had not taken steps to address the increased volume of work in their Alaska office.

Previous Conclusions, Recommendations, and Agency Responses

In 2006, we reported that ANCs were increasingly using the contracting advantages Congress has provided them. Our work showed that procuring agencies' contracting officers are in need of guidance on how to use these contracts while exercising diligence to ensure that taxpayer dollars are spent effectively. Equally important, we stated, significant improvements were needed in SBA's oversight of the program. Without stronger oversight, we noted the potential for abuse and unintended consequences.

In our April 2006 report, we made 10 recommendations to SBA on actions that can be taken to revise its regulations and policies and to improve practices pertaining to its oversight of ANC 8(a) procurements. Our recommendations and SBA's June 2007 response are as follows.

We recommended that the Administrator of SBA:

1. Ascertain and then clearly articulate in regulation how SBA will comply with existing law to determine whether and when one or more ANC firms are obtaining, or are likely to obtain, a substantial unfair competitive advantage in an industry.

   SBA response: SBA is exploring possible regulatory changes that would address the issue of better controlling the award of sole-source 8(a) contracts over the competitive threshold dollar limitation to joint ventures between tribally and ANC-owned 8(a) firms and other business concerns.

[7] This requirement is set forth in the Small Business Act (15 U.S.C. § 636(j)(10)(J)(ii)(II)).

2. In regulation, specifically address SBA's role in monitoring ownership of ANC holding companies that manage 8(a) operations to ensure that the companies are wholly owned by the ANC and that any changes in ownership are reported to SBA.

   SBA response: SBA is building a Business Development Management Information System to electronically manage all aspects of the 8(a) program. According to SBA, this system, scheduled to be completed in Fiscal Year 2008, will monitor program participants' continuing eligibility in the 8(a) program and could include an ANC element in the electronic annual review that would monitor the ownership of ANC holding companies that manage 8(a) operations and ensure that any changes in ownership are reported to SBA.

3. Collect information on ANCs' 8(a) participation as part of required overall 8(a) monitoring, to include tracking the primary revenue generators for 8(a) ANC firms to ensure that multiple subsidiaries under one ANC are not generating their revenue in the same primary industry.

   SBA response: The planned electronic annual review can collect information on ANCs' multiple subsidiaries to ensure that they are not generating the majority of their revenues from the same primary industry. Further, to ensure that an ANC-owned firm does not enter the 8(a) program with the same North American Industry Classification System (NAICS) code[8] as another current or former 8(a) firm owned by that ANC, the ANC-owned applicant must certify that it operates in a distinct primary industry and must demonstrate that fact through revenues generated. SBA notes that the planned annual electronic reviews can validate this information.

4. Revisit regulation that requires agencies to notify SBA of all contract modifications and consider establishing thresholds for notification, such as when new NAICS codes are added to the contract or there is a certain percentage increase in the dollar value of the contract. Once notification criteria are determined, provide guidance to the agencies on when to notify SBA of contract modifications and scope changes.

   SBA response: SBA stated that its revisions to its partnership agreements with federal agencies address this recommendation. However, we note that the revised agreement does not establish thresholds or include new criteria for when agencies should send SBA contract modifications or award documentation. The agreement states that agencies "shall provide a copy of any contract...including basic contracts, orders, modifications, and purchase orders" to SBA.

5. Consistently determine whether other small businesses are losing contracting opportunities when awarding contracts through the 8(a) program to ANC firms.

   SBA response: SBA stated that it plans to require the contracting agencies to include impact statements in their contract offer letters to SBA.

6. Standardize approval letters for each 8(a) procurement to clearly assign accountability for monitoring of subcontracting and for notifying SBA of contract modifications.

   SBA response: SBA agreed with the recommendation but did not indicate an action taken or planned.

7. Tailor wording in approval letters to explain the basis for adverse impact determinations.

   SBA response: SBA agreed with the recommendation but did not indicate an action taken or planned.

8. Clarify memorandums of understanding (known as partnership agreements) with procuring agencies to state that it is the agency contracting officer's responsibility to monitor compliance with the limitation on subcontracting clause.

   SBA response: SBA has implemented this recommendation by revising the partnership agreements with the procuring agencies. It added several provisions that delineate the agencies' responsibilities for oversight, mon-

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[8] SBA has designated a small business size standard for every NAICS code. 8(a) applicants must qualify as small under their primary NAICS code at the time of application and SBA's certification date. SBA regulation requires that at least 2 years lapse after an ANC firm exits the 8(a) program before another firm owned by the same parent ANC can enter the program with the prior firm's primary NAICS code. However, once accepted into the program, 8(a) firms may pursue contracts in any line of work, called secondary NAICS codes.

itoring, and compliance with procurement laws and regulations governing 8(a) contracts, including the limitation on subcontracting clause.

9. Evaluate staffing levels and training needed to effectively oversee ANC participation in the 8(a) program and take steps to allocate appropriate resources to the Alaska district office.

   SBA response: SBA stated that the planned Business Development Management Information System should help the Alaska district office more effectively oversee ANC participation in the 8(a) program. It stated that it is providing training to the Alaska district office. However, no plans were in place to evaluate staffing levels at the office.

10. Provide more training to agencies on the 8(a) program, specifically including a component on ANC 8(a) participation.

    SBA response: SBA has provided training to agencies on the revised 8(a) partnership agreements; however, our review of the slides SBA used for the training found no reference to ANC 8(a) firms specifically. According to an SBA official, SBA will include a component on ANC 8(a) participants in future training sessions.

We also recommended that procuring agencies provide guidance to contracting officers to ensure proper oversight of ANC contracts. The procuring agencies generally agreed with the recommendation. Some agencies are waiting for SBA to implement our recommendations before they take their own actions, but others have taken steps to tighten their oversight of contracts with 8(a) ANC firms. The Department of Homeland Security, for example, recently issued an "acquisition alert" requiring that its heads of contracting activities provide guidance and training on the use of 8(a) firms owned by ANCs. The alert provides that use of the authority to award sole-source 8(a) contracts to ANCs must be judicious with appropriate safeguards to ensure that the cost/price is fair and reasonable, that the ANC has the technical ability to perform the work, that the ANC will be performing the required percentage of the work and that the award is in the best interests of the government. The Department of Energy revised its acquisition guidance regarding small business programs to remind contracting officers to use care in awarding and administering ANC contracts, to include notifying SBA of contract modifications and monitoring the limits on subcontracting. The Department also provided training on the 8(a) program, to include contracting with ANC firms. By providing contracting officers with appropriate training on these issues, the government is taking steps to ensure that the ANC firms are operating in the program as intended, thereby mitigating the risk of unintended consequences or abuse of some of the privileges provided to these firms.

This concludes my testimony. I would be happy to answer any questions you may have.

Contacts and Staff Acknowledgements

For further information regarding this testimony, please contact Katherine V. Schinasi at (202) 512-4841 or schinasik@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Key contributors were Michele Mackin, Sylvia Schatz, and Tatiana Winger.

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GAO
Highlights

Highlights of GAO-07-1251T, a testimony before the Committee on Natural Resources, House of Representatives

September 19, 2007

ALASKA NATIVE CORPORATIONS
Increased Use of Special 8(a) Provisions Calls for Tailored Oversight

Why GAO Did This Study

Alaska Native corporations (ANC) were created to settle land claims with Alaska Natives and foster economic development. In 1986, legislation passed that allowed ANCs to participate in the Small Business Administration's (SBA) 8(a) program. Since then, Congress has extended special procurement advantages to 8(a) ANC firms, such as the ability to receive sole-source contracts for any dollar amount and to own multiple subsidiaries in the 8(a) program. We were asked to testify on an earlier report where we identified (1) trends in the government's 8(a) contracting with ANC firms, (2) the reasons agencies have awarded 8(a) sole-source contracts to ANC firms and the facts and circumstances behind some of these contracts, and (3) how ANCs are using the 8(a) program. GAO also evaluated SBA's oversight of 8(a) ANC firms.

GAO made recommendations aimed at improving SBA's oversight of 8(a) ANC contracting activity and ensuring that procuring agencies properly oversee 8(a) contracts they award to ANC firms. SBA has either taken action or plans to take action on the recommendations. The procuring agencies generally agreed with our recommendation to them.

We believe implementation of our recommendations will provide better oversight of 8(a) ANC contracting activity and provide decision makers with information to know whether the program is operating as intended.

What GAO Found

While representing a small amount of total federal procurement spending, obligations for 8(a) contracts to ANC firms increased from $265 million in fiscal year 2000 to $1.1 billion in 2004. Over the 5-year period, agencies obligated $4.6 billion to ANC firms, of which $2.9 billion, or 63 percent, went through the 8(a) program. During this period, six federal agencies—the departments of Defense, Energy, the Interior, State, and Transportation and the National Aeronautics and Space Administration—accounted for over
85 percent of 8(a) contracting activity. Obligations for 8(a) sole source contracts by these agencies to ANC firms increased from about $180 million in fiscal year 2000 to about $876 million in fiscal year 2004.

ANCs use the 8(a) program as one of many tools to generate revenue with the goal of providing benefits to their shareholders. Some ANCs are heavily reliant on the 8(a) program for revenues, while others approach the program as one of many revenue-generating opportunities. GAO found that some ANCs have increasingly made use of the congressionally authorized advantages afforded to them. One of the key practices is the creation of multiple 8(a) subsidiaries, sometimes in highly diversified lines of business. From fiscal year 1988 to 2005, ANC 8(a) subsidiaries increased from one subsidiary owned by one ANC to 154 subsidiaries owned by 49 ANCs.

In general, acquisition officials at the agencies reviewed told GAO that the option of using ANC firms under the 8(a) program allows them to quickly, easily, and legally award contracts for any value. They also noted that these contracts help them meet small business goals. In reviewing selected large sole-source 8(a) contracts awarded to ANC firms, GAO found that contracting officials had not always complied with certain requirements, such as notifying SBA of contract modifications and monitoring the percentage of work that is subcontracted.

SBA, which is primarily responsible for implementing the 8(a) program, had not tailored its policies and practices to account for ANCs' unique status and growth in the 8(a) program, even though SBA officials recognized that ANCs enter into more complex business relationships than other 8(a) participants. Areas where SBA's oversight fell short included determining whether more than one subsidiary of the same ANC was generating a majority of its revenue in the same primary industry, consistently determining whether awards to 8(a) ANC firms had resulted in other small businesses losing contract opportunities, and ensuring that the partnerships between 8(a)
ANC firms and large firms were functioning in the way they were intended.

www.gao.gov/cgi-bin/getrpt?GAO-07-1251T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Katherine Schinasi at (202) 512-4841 or schinasik@gao.gov.

The CHAIRMAN. Thank you. The Chair would like to thank each of you for your time and testimony today as well as for your public service and your commitment to Indian Country, and your help to our Native Americans. We all deeply appreciate that service.

Let me start with Dr. Middleton first. Your testimony indicated that your office is encouraging other Federal agencies to increases purchases of American Indian goods and services. My question is does this include encouraging the use of tribally owned and Alaska Native Corporation 8[a] companies?

Mr. MIDDLETON. Yes, it does. Under the Buy Indian Act, we are trying to encourage Federal government to be a procurer of goods and services from Indian-owned businesses, whether they are individually Indian-owned or tribally owned, and which would include 8[a] firms.

The CHAIRMAN. And are tribally owned and/or Alaska Native Corporation 8[a] companies eligible for the training provided by your office?

Mr. MIDDLETON. They are actually. We go out and we provide a series of conferences to talk about business development in Indian Country, and any firms that may be applying for or in fact have applied for 8[a] status would be eligible for this training. One in particular would be the training we provide through Dartmouth College. That is in fat put in place to be able to allow existing businesses to either enhance their business development or expand their business development. It has been very effective and they can in fact participate in those programs.

The CHAIRMAN. Your testimony indicates that your office is working with the GSA to develop a tracking system of contracts awarded to Tribal 8[a] and Alaska Native Corporations. Does the tracking system that is being developed track contracts awarded by all Federal agencies to Tribal and Alaska Native 8[a]s or only those awarded by the DOI?

Mr. MIDDLETON. We are looking to do it government wide. The existing system in GSA at this time does not allow for designation of tribally owned 8[a] businesses, only 8[a] businesses, and so we are trying to work with GSA to try and identify those Native American 8[a] businesses that are in fact getting contracts across the Federal government.

The CHAIRMAN. Mr. Largent, in its 2006 report on Alaska Native Corporation in the 8[a] programs, the GAO recommended that the SBA improve the monitoring and oversight of Alaska Native Corporations in 8[a] program. Does the Small Business Administration have a way to track procurement data on Tribal and Alaska Native Corporation participation in the program?

Mr. LARGENT. I don't know that I could answer that question with any reliability. Can we get back to you in writing on that?

The CHAIRMAN. Sure. Let me ask you one final one. Can the SBA develop and make recommendations to other Federal agencies to develop mechanisms to accurate track Tribal and Alaska Native Corporation procurement data?

Mr. LARGENT. I am aware that a meeting has been scheduled with seven of the largest agencies that do procurement with Indian Country and 8[a]s. I think that meeting is scheduled in October, and we can give you more detail on that in writing also.

The CHAIRMAN. OK. The Committee would appreciate it.

Ms. Schinasi, in your written testimony you indicated that from Fiscal Year 2000 to 2004 contracts to ANCs increased by 265 million to 1.1 billion. Was there an increase in the total amount of contracts obligated by the Federal government from the same time period, 2000 to 2004, to all entities?

Ms. SCHINASI. Yes, sir. We see the same explosion in service contracting generally.

The CHAIRMAN. In your study, I noticed that you indicated that the SBA and the Federal contracting agencies were not conducting adequate oversight. Did you find any illegal activity being performed by the ANCs?

Ms. SCHINASI. No, sir.

The CHAIRMAN. OK, I appreciate it. That concludes my questions. I will turn to the Ranking Member, Mr. Cole, Mr. Young. I am sorry.

Mr. YOUNG. Thank you, Mr. Chairman.

Katherine, I won't pronounce your last name, I would rather say Katherine, it is a lot easier.

[Laugher.]

The CHAIRMAN. I slaughtered the language anyway.

Mr. YOUNG. You said that the SBA has made some progress or significant progress toward implementing your changes that were recommended. Do you believe the SBA and procuring agencies will be able to make the remaining changes on their own without significant intervention by this body or any other body?

Ms. SCHINASI. Yes, sir, I do.

Mr. YOUNG. I am glad the question was asked by the Chairman about the growth of this total contracting because I was a little concerned when you mentioned that it went from 200 million to 1.5 billion. If you look at the total number of contracts, it is still, I believe, 0.5 percent of the total contracts that are let. So it is not a huge growth. It is a growth, but everybody else grew too, so I think it is good.

I don't have any other questions, Mr. Chairman. I think you did quite a good job on it. I want to thank the witnesses for being here, and again, this whole program is a success and I hope we encourage it instead of discourage it. The oversight part is probably needed, and I think it is good for everybody. I have found no one that has an interview with your agency that objected to that. I think that is good for the SBA. I think it is good for the 8[a]s, and we will encourage that. Thank you.

The CHAIRMAN. The gentleman from North Carolina, Mr. Shuler.

Mr. SHULER. Thank you, Mr. Chairman.

Mr. Largent, can you share with us how the process for deciding if a Tribe is deemed social or economically disadvantaged, and does gaming enter into this decision?

Mr. LARGENT. Again, that is not my area. I am not with the program office. I do know that it is incredibly thorough assessment. It takes a considerable amount of time, and we are looking to streamline that process so that Tribes that are applying for 8[a] certification can more easily navigate it, but it is a comprehensive and thorough process, and I would be happy to get back to you from the program office if you would like.

Mr. SHULER. Very good. And this could be for anyone on the witness panel. Can you give me some examples of Tribes who have entered into the process of the 8[a] program and graduated from that and actually become more self-sufficient based upon the success that they have had in the program?

Mr. LARGENT. Actually, sitting right behind me, and I believe you will hear testimony a little later from former Secretary Neal McCaleb, Chickasaw Nation is a wonderful example. At one point I believe they had 12 Tribal 8[a]s. I think five have graduated. They employ over 2,000 people, have a very diversified economy and a far better quality of life than they had 20 years ago because of 8[a]. S&K Technologies, Kootenai and Salish Reservation is another example, but there are few. There are few Tribes that have been able to enjoy any real benefits from the 8[a] program, and we are working feverishly to change that.

Mr. SHULER. Very good. I commend all of you for your service, and Mr. Chairman, I yield back.

The CHAIRMAN. Mr. Cole.

Mr. COLE. Thank you very much, Mr. Chairman, and thank each of you for your testimony. I only have a few questions. Let me begin by picking up where Mr. Shuler left off.

I would ask you just to elaborate going forward. We have some examples of Tribes, Mr. Largent, obviously that have been successful in taking 8[a] contracting and moving out more broadly. What are the things you think we can do to make sure that that success is shared by more Tribes?

Mr. LARGENT. Congressman, I would defer to the specifics on that to the actual Tribes and Native villages, but I will tell you that I travel extensively. I have been to remote Alaskan villages, spent the night there, been to a number of reservations, attend regular conferences, host meetings in my office, and with the Administrator with Tribal delegations, and I cannot recall one meeting where the issue and the importance of 8[a] has not come up.

Mr. COLE. So this is a pretty important tool in a lot of different Tribal toolboxes in terms of making their people self-sufficient and providing opportunities that simply haven't been there in the past?

Mr. LARGENT. That is the message that is delivered to me and that I deliver to the Administrator.

Mr. COLE. Mr. Middleton, we have a lot of interesting ideas in the broader society about the nature of Native economies, and most people I run into be outside that universe quite often think that all Tribes are now rich due to gaming. Could you comment on how accurate that is or how much that might reflect the reality?

Mr. MIDDLETON. Well, actually, I, in talking to non-native citizens of the United States, I have them relay that exact message to me also, and it is absolutely not true as evident by the unemployment rates that are currently out there in a number of reservations. It is true that some Tribes in fact have been fortunate, that gaming has contributed significantly to their well being, but there are many Tribes out there that may in fact that have gaming but are not doing as well or just barely breaking even, or in fact not have gaming, and they are in remote locations.

So any way that we can enhance the economies of those areas absent having gaming opportunities allows the Tribes to in fact enjoy a better life. I will give you one example.

I was traveling to Duck Valley, which is on the Idaho/Nevada border, recently, and had a chance to go to a computer center where some local Tribal members were there, and a young man was there sitting at the computer. And I struck up a conversation with him, and they are desperate to have some sort of economic development opportunities in Duck Valley. We are working closely with them to try and make that happen. But I talked to him. I said, well, what are you doing now? And he said he graduated from high school about a year ago. And I said, well, you know, what is happening? And he just said, I am just bored, there is nothing to do, there is no jobs, no job opportunities, and so he will come to the computer center and sit there and get on the computer and look at the outside world, and not be able to participate, and those are the type of things that we need to change.

Mr. COLE. Appreciate that. Ms. Schinasi, and I hope I pronounced it right, you did mention, and I want to go back to this point about the trend line, the growth. Is there anything that would surprise you about that particularly? Given the fact that we sort of set this policy out, and people have taken advantage of it, and I would expect in the early stages if you start at zero or a relatively low number, the numbers look pretty dramatic if you talk in terms of percentage increases. But is there anything that is alarming or surprising about the speed with which people have taken advantage of the opportunity or Tribes have taken advantage of the opportunity?

Ms. SCHINASI. The trends that we see here, interestingly enough, parallel the trends that we see in government contracting as a whole, and I talk about that not because there is anything in the absolute dollar value that has any value in and of itself in that number, but what we look at that for is whether or not there are risks from a management perspective. And so we have taken a very similar positions when we look at service contracting as a whole.

When you have rapid growth and you have at the same time cuts in your workforce, and you have more complicated contract vehicles, then the agencies need to be paying more attention to what is going on.

Mr. COLE. But just for the record, there is no reason to think that it is any different than any other phase of government contracting, no reason to particularly single out this particular area of Federal contracting?

Ms. SCHINASI. Not in terms of the dollars spent. No, sir.

Mr. COLE. Thank you very much. Thank you, Mr. Chairman.

The CHAIRMAN. Gentlelady from California, Ms. Napolitano.

Ms. NAPOLITANO. Thank you, Mr. Chair, and this is really an interesting conversation, but I am trying to find out, Mr. Largent, whether—because I sat on the Small Business Committee for six years, and I learned a lot about what agencies, Federal agencies are not doing, because I have known contractors that have been 8[a] certified, this is minorities, and never got a contract once for years.

So are we having SBA work with the Federal agencies to change their mindset in terms of being able to assist minority outreach? Because it is all well and good that your agency may be focusing on that, but if you don't change the mindset of the procurement officers in the Federal agencies, it is not going to help you increase at the way it should be.

Then the second question would be are you looking at diverse areas of the United States where you have your Tribal groups in the area? Because I know you have talked about the ones that have gaming, some of them are doing very well, and they have done outreach to help other tribes, but you need to start teaching the young people at the school level and advising them where they can begin to look for getting into the economy, getting into business, being able to be—how would I say—successful in business enterprises, and I don't hear any of that. Sir?

Mr. LARGENT. With respect to your first question, in general terms I can tell you that, yes, I know that the Office of Advocacy works specifically on this issue. I have had the opportunity to accompany Tribal delegations to other agencies to talk about opportunity.

With respect to specific methodology, I would prefer to get back in writing from the program office that is responsible for that because my focus is very, very narrow. I work with Indians, Native Hawaiians, Alaska Natives and the Islands of Guam and American Samoa, and probably won't get there. So if that is OK, I would prefer to get back in greater detail with people that can give you that answer.

With respect to your second question, absolutely, and this is one of the reasons that we travel so much. We have put together a team of people to help us develop a tool that is both diverse from a business and educational background and also diverse from a geographic background.

I cannot emphasize enough the challenge that Tribal leaders have in trying to build economies. It is more than just access to capital or better education or access to markets. I recently had an opportunity to travel to a reservation and was touring one of their facilities, a very nice facility, and they were explaining to me because of the high incidence of diabetes in the community that they have to schedule their workforce because every two or three days people need to leave for three hours for treatment. Factor that into a competitive business analysis and you see the challenge, and that is one component.

So developing this tool that I keep talking about, we have identified 130 separate components at this point that we believe are instrumental or integral to developing sustainable economies, things from as broad and powerful and well known as Tribal governance structure to things as nuanced as bereavement policy. It is a very complicated mix and we are working very, very hard.

This past Sunday I flew to San Francisco to meet with Wilma Mankiller, former Cherokee chief, to get her insights as to how we can roll this out. A lot of people are working very hard to address that issue.

Ms. NAPOLITANO. Do you work in California?

Mr. LARGENT. No, I work here. I live in Michigan. I fly in on Mondays. I fly home on Fridays.

Ms. NAPOLITANO. So your outreach is not into the Western——

Mr. LARGENT. I go everywhere. I go everywhere. I was in San Francisco. I have been to Alaska.

Ms. NAPOLITANO. OK.

Mr. LARGENT. We are in the process right now of trying to finalize an inner-tribal in Oklahoma, Nevada, New Mexico, California, and somewhere else where we will sit down with broad delegations of Tribal leadership to say here is what we are doing, what do you need.

Ms. NAPOLITANO. I hate to stop you but my time will be very limited, and that is, do you actually have the ability to do other outreach through new technologies such as video conferencing so you don't have to travel?

Mr. LARGENT. Yes, although it is difficult to effect the trust and the nuance, the understanding. But the tool that we are building is on a sheer point platform where more and more people can access it from remote locations and provide their insights, yes.

Ms. NAPOLITANO. OK. The other question would be the Small Business Committee under former Chairman Donald Manzullo had begun establishing a one-stop shop for small business. Are you aware? Do you work with that? Because they were going to be able to try to hone in on assisting small business, that is any small business.

Mr. LARGENT. Are you referring specifically to Indian reservations?

Ms. NAPOLITANO. No. Generally small business that could be useful in being able to use this tool to further some of the contacts of some of the Tribes.

Mr. LARGENT. If we can draw a distinction, Congresswoman, there is a unique distinct set of circumstances between individual Indians and Tribes. So for individual entrepreneurs such as myself, I have been self-employed for 30 years, being able to access the resources of the Small Business Administration or other Federal programs are available to them like they would be anybody.

But for developing sustainable economies on reservations, that is an entirely different matter, and I believe that one-stop shops would have limited, if any, value in that particular context.

Ms. NAPOLITANO. Well, that may be so for some, but others may be in a position to be able to have some benefit from that.

Mr. LARGENT. If you could elaborate.

Ms. NAPOLITANO. Some may already be in business and may be able to expand and being able to access information available on that one-stop shop.

Mr. LARGENT. Agreed, and again those resources are already available and we are trying to direct individuals and Tribes to those resources where appropriate. But in remote locations, such as the villages of Alaska, or the big land mass Tribes out West, we have not had a great deal of success because it is just a unique circumstance to work in. Accessing capital is very difficult, for example. Pretty hard to start a business without money.

Ms. NAPOLITANO. Thank you, Mr. Chair. I would like to go for a second round, if available.

The CHAIRMAN. Sure. The gentleman from Puerto Rico, Mr. Fortuño? Next on our side is the gentleman from California, Mr. Baca.

Mr. BACA. Thank you very much, Mr. Chairman, and I want to thank the panelists for coming and giving their insight, and I guess we have heard a lot of positive things, but I want to continue to hear. What can be done to improve the current system that we have right now in doing the outreach in reference to the 8[a] programs, and what kind of educational programs are we developing in conjunction with our K through 12, our community colleges or state colleges to make a lot of the people aware of the programs that are available for them? Any one of you can elaborate on that in terms of what can be done to improve what we are doing now, and if there is any changes or corrections that we need to do to make sure that we do the outreach too as well and letting many individuals that they have an opportunity to apply to create, not only diversify themselves and jobs and opportunities within the area.

Mr. MIDDLETON. I will let Mr. Largent speak toward ongoing improvements of the 8[a] program. I would like to speak to the educational opportunities that Congresswoman Napolitano also raised.

It is important for us to get out and talk with Indian youth at an early period in their educational process. We have gone out and found that many Indian youth really need to have an understanding of what entrepreneurship is, what small business development is. I think, as this committee is aware, small businesses create well over 50 percent of the jobs in the United States, and we need to promote more small business development in Indian Country.

We have started an initiative in the Department of Interior in conjunction with a financial education nonprofit to do a demonstration project with six of our schools to, in fact, start teaching entrepreneurship. We think this is going to be a successful program, and one that we can expand to the other schools that we have in place.

We are also looking to reach out to youth through some of our conferences that we are putting on across country to talk about business development and providing them the tools and skills and financial expertise they need, in fact a step in the small business development as tribes start developing their economies. How do you fill in with some of those on-location businesses that in fact could be supporting services for some of the other businesses that are in place.

In addition, both Mr. Largent and I sit in on a monthly meeting at the White House. We have a work group that includes all of the agencies across Federal government that have Indian programs and are dealing with Indian issues, and through that meeting and that committee that we sit on we provide a lot of cross-fertilization across information across agencies so that we in fact are trying to leverage our programs as best we can so that we are not stovepiped, and we think that has shown some success on a number of occasions.

Mr. BACA. Mr. Largent, can you elaborate a little bit more?

Mr. LARGENT. In addition, the Office of Native American Affairs in partnership with the Small Business Training Network, which

is an office inside the SBA that develops online training materials, last year we partnered to link some of those materials to the Tribal colleges and universities, which are managed under the White House Initiative of Tribal Colleges and Universities, and this year we are in the process of developing a Native-specific curriculum for entrepreneurial development, basically a first step of what it means to be an entrepreneur, and again I can't overstate the importance and the difference in the way that Indian people look at business and economic development.

I was in a meeting last week and I had a conversation with a Tribal leader who said to me, what is economic development? He said, to us, our festivals are so important that we take part time and seasonal work because it is more important to be at a festival with our people, celebrating who we are, than to be working five days a week. So these are cultural differences and trying to create training programs and making technical resources available that will have meaning is a difficult thing to do.

I had one other thing I wanted to tell you and it slipped my mind, so if I can tap dance for a minute and come back to it.

Mr. MIDDLETON. And I would be glad to fill in a little more on this also. For small business development, actually one of the hindrances of small business development is getting capital to be able to start small businesses, and Congress last year passed an amendment to the Indian Finance Act, in fact, is going to provide us some very useful tools for providing capital investment out to Indian Country for small business development. It is going to allow the guaranteed loan program of the Department of the Interior to provide guaranteed loans to 501[c][3]s, which includes community development financial institutions.

Currently, our program typically makes loans on the order of $250,000 to our largest is about $18 million, and because we work with the lenders, lenders typically don't want to deal with smaller business loans because it is the same amount of paperwork for them. By allowing us to do guaranteed loans to some of these 501[c][3]s, it is going to allow us to set up a revolving guaranteed loan account there that can meet the needs of let us say a mechanic who wants to start a mechanic business, needs to buy tools, needs to buy equipment, needs to set up a shop in the $80,000 to $100,000 range, and we think this is going to show some great benefits in future years.

Mr. BACA. I know that my time has expired but, Mr. Chair, if I may ask my final question. Just a quick yes answer would be to the question.

Is it true that because of these programs have come into existence and not only in small business development and creating opportunities and jobs, that these jobs are truly created here in the United States and they are given opportunities to individuals to obtain jobs here comparison to every other corporation that is outsourcing Native American Indians and Indian Country are creating jobs right here in the United States for the American people, is that true?

Mr. LARGENT. That is absolutely true, and if I can take more than a couple of words just to give you an example. I am working with a group of Tribes and a private sector company to put to-

gether call center operations off a central node located in the urban environment.

Mr. BACA. Thank you.

The CHAIRMAN. Gentleman from Utah, Mr. Bishop.

Mr. BISHOP. Thank you, Mr. Chairman. I apologize for being here late, but I realize that no well-run institution would there ever be three hearings and a markup scheduled at the same time in the morning.

[Laughter.]

Mr. BISHOP. But since Mr. Kildee was able to do it, I am appreciative that I was able to join him. And by the way, Mr. Kildee, happy birthday on Sunday.

I am glad I was able to catch Dr. Middleton here, and I appreciate the approach they have taken in realizing the diversity amongst our Native American Bands and Tribes so that multiple approaches have to take place so that one size just doesn't fit all. We can't be stereotypical with that. I am especially grateful for the 8[a] program under Dr. Middleton's direction.

The Northwest Shoshone Band is based in my home city of Brigham City, and they have used this program very effectively in a number of projects and an ever-increasing expansion of projects that have added toward their economic benefit and the benefit not only of this particular Band but also the area.

I would ask unanimous consent, Mr. Chairman, to have a statement added to the record.

The CHAIRMAN. Without objection.

[The prepared statement of Mr. Bishop follows:]

Statement of The Honorable Rob Bishop, a Representative in Congress from the State of Utah

The Northwestern Band of Shoshone Nation, based in Brigham City, Utah, started their Economic Development Corporation three years ago. With $10,000 borrowed from the Tribe and no employees, they were able to start a company that took advantage of the 8(a) program. Now the Company performs contracts for the Intelligence Community (translation services, intelligence analysis and Information Technology) and construction (over 60 projects throughout the country). The tribal company has over 100 employees, and is still 100% owned and run by the Tribe.

Half of the Company's profits go to tribal infrastructure—the Tribe built a new housing development (10 house subdivision in Ogden), new tribal offices (in Brigham City) and reacquired the site where the Tribe was massacred by federal troops (33 acres NW of Preston, Idaho). The Tribe continues to open new offices throughout Utah, and has extended employment opportunities not only to Shoshones, but also member of other Tribes (Navajo, Sioux, Cherokee, etc.).

Taking the Harvard Project for American Indian Economic Development to heart, the Tribe follows "Nation-building" principles. Tribal representatives run the businesses without interference from politics. Now other tribes, including gaming tribes, are turning to the Northwestern Shoshone to diversify economic development through joint ventures with the Tribe to promote 8(a) work.

The CHAIRMAN. The gentleman from American Samoa, Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. Not only do I want to wish the gentleman from Michigan a very happy birthday, but I do want to personally commend him for his authorship of the legislation that was recently passed by the House of Representatives concerning giving greater assistance to the housing needs of our Native American community, and I do want to personally com-

mend him for that and for you too, Mr. Chairman, coming from Alaska, and Mr. Cole, this was a bipartisan effort, and I am just so happy that this legislation went through.

I just want to commend the members of the panel for their excellent statements. I do have a couple of questions. I am not a very good mathematician. If I read this correctly that here we have a pot of $378 billion, and out of this whole thing we are talking about—is it five-tenth of 1 percent that has been used for our Native American community? Five-tenths of 1 percent of $378 billion.

I was just wondering with this $378 billion pot, how about maybe earmarking $5 billion as—well, maybe I had better not use the word.

[Laughter.]

Mr. FALEOMAVAEGA. Let us earmark it or set it aside or allocate it or appropriate. Yes, I would be the first one to volunteer to earmark $5 billion out of this $378 billion pot that we are talking about.

You know, with 38 percent unemployment, 56 percent of the minimum wages of household goods, the highest rate of diabetes, the health conditions that our Native American community are experiencing, and it is just nice to give out the money. I mean, this is the way to do it. Encourage them to do business, but I am very concerned that we haven't really got to the very root of the problems.

As you had indicated earlier, Mr. Largent, that it is not just say, OK, let us start a business. Are the people educated enough to do a business? What kind of an educational system or educational facilities even that a Native American community has been given?

We have some 24 Tribal colleges all over the country, and maybe this is another area that we need to focus on, not just to say do business, but we haven't really started from the roots on how we can better prepare our Native American community, not only through education, through providing better health, infrastructure, and I honestly believe that what—what is your response? Do you think $5 billion may be a help in that direction if we can find some way or some how?

I am just throwing out a number. If I see five-tenths of 1 percent of the $378 billion pot, and we are only giving 1.7 billion to the Native American community, somehow it just doesn't seem to jive with me on that. Can you comment on that?

Mr. LARGENT. No.

[Laughter.]

Mr. LARGENT. But I can say that as Tribes and Alaska Native Corporations and Native Hawaiians and individuals wade in——

Mr. FALEOMAVAEGA. By the way, I am a member of the Samoan Tribe. Is there any hope for me?

Mr. LARGENT. We can talk afterwards.

As they wade into business the capacity and capability gets broader and stronger every year. I mentioned an organization earlier in my testimony called "NABA", Native American Business Alliance, and NABA was formed, I had left the reservation after I sold my company in 1986, and NABA was formed by urban Indians to do business in the private sector. And when I introduced the idea that our credibility was at stake without the support of Tribes,

it was a very heated debate that lasted for a year before we finally decided to shift our mission. And as I said in my testimony, there was very little understanding of how business works, how competitive it is.

Today, we are seeing improvements and it is my belief that as Tribes get a better understanding of what makes sense for them, because of their internal capabilities, their culture, the resources that are available to them, they will be able to excel in the private sector, and I think we are going to see that kind of diversification as time goes on, but we need some time because we are dealing with a 250-year legacy of not just neutral activity but in many cases harmful activity to Native concerns.

Mr. FALEOMAVAEGA. Just a real quick question to Ms. Schinasi. It sounds like you are either Navajo or Pueblo or Comanche. Schinasi sounds very much southwestern.

I was listening to your testimony and other than greater oversight and all of this, but do you have any recommendations on how we can even amend the law to make it even better for the needs, to provide for the needs of your Native American community?

Ms. SCHINASI. I think most of what needs to be done can be done without legislative change, and I would offer that our recommendations to SBA were at some level generally to protect the taxpayer dollars, but also at some level to protect the firms who are participating in these programs, because when you don't have an idea of what joint ventures look like or whether or not contracts are let based on pass-through contracts and things like that, it can be the firms themselves who can suffer in an arrangement like that. So I think better oversight is in fact one way to help the ANC 8[a] corporations.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. My time is up.

The CHAIRMAN. Gentlelady from the Virgin Islands, Ms. Christensen.

Ms. CHRISTENSEN. Thank you, Mr. Chairman. I wondered, because most of the discussion was around reservations, as I understand it, and I realize I did have to step out, but how are you reaching the urban Indian populations, and is the situation there any different? Anybody or all could answer.

Mr. LARGENT. The Small Business Administration has significant presence in urban and suburban areas. I recently had the opportunity to address the Wisconsin American Indian Chamber of Commerce in Milwaukee where they recently received a grant to become a lending entity to small businesses in urban areas as well as Tribal areas. So we have a plethora of programs on technical assistance, access. One of the businesses I have owned in my career, I got an SBA loan. So there is plenty of assistance from my agency for urban Indians, and that is why the focus of my office is exclusively on remote locations, Alaskan villages and Tribes that are in remote geographic areas, as well as Hawaii.

Ms. CHRISTENSEN. Anyone else?

Have any specific areas of economic activity or any specific types of businesses been identified? Has there been any kind of study to see what kind of businesses might be most profitable or have the most opportunity for creating businesses in Indian communities and Alaskan Native?

Mr. MIDDLETON. I can speak a little bit to that. Absent having gaming opportunities, probably one of the largest opportunities for Tribes, particularly in the lower 48, is energy and mineral development. There is a significant amount of energy and mineral development on Tribal lands that has been unexplored. As a matter of fact, I think some of the estimates that we have in place are fairly conservative simply because we don't have enough data, seismic data or geological data to be able to determine what the extent of the resources are.

A number of tribes are starting to take advantage of this, the Crow Tribe in Montana, for example, which has large land base and significant coal, natural gas, and other mineral resources.

But I have to speak a little bit toward the development of these energy and mineral resources because our philosophy on this is that we would like to see Tribes get away from this landlord/lessee arrangement of just leasing the lands and just leasing the resource capacity to outside companies. We would like to see Tribes start their own companies. For example, if they have gypsum deposit, as many Tribes do, rather than just selling it off at a cents per ton manner, we would like to see them think about setting up a wallboard plant, which is what—gypsum is made into wallboard, set up a wallboard plant and actually capture that value added, capture those jobs rather than moving those jobs off a reservation.

So that is the approach we are taking, but we think there are significant opportunities in energy and mineral development.

Mr. LARGENT. And Dr. Middleton raises a good point, and my agency is working in concert with them. As we travel around and find Tribes that think they have a business idea because of a resource, whether it be alternative energy like ethanol or biomass or wind, or manufacturing, or niche IT, we look to work with them both to help them find the capital and the expertise and the education to make this a reality, and that is really what I was referring to when I said it will be an evolutionary process, much like gaming.

When gaming first came, and my Tribe was one of the first in the country to have gaming, we imported non-Native gaming managers to come in and run our operations for us. Now we are pretty much self-sufficient in that area.

So given the opportunity over time, we will find additional value add opportunities in the various natural resources or other assets that we have to work with

Ms. CHRISTENSEN. OK. Is that it?

Is it your birthday today? Oh, we share a birthday. OK. Happy birthday.

Mr. LARGENT. And as a fellow Michigander, Congressman, I wanted to say happy birthday too.

The CHAIRMAN. The gentleman from Michigan is now recognized, Mr. Kildee.

Mr. KILDEE. Thank you very much. It is my privilege to welcome a fellow Michigander today.

I have been involved in Indian matters since my election to the state legislature in 1965. One of the first bills I introduced was the Indian Tuition Waiver Act in Michigan. Any Michigan Indian can go to a public college in Michigan and the state pays the tuition.

I introduced that because I read the Treaty of Detroit, and treaties are very, very important, and we have moral and legal obligations to those treaties.

So I met many a Indian from Michigan who went to college because of that Michigan Indian Tuition Waiver Act, and I also introduced the bill back in 1966, I think, to establish the Michigan Indian Commission, because many agencies in Michigan had no idea what the responsibilities were, so they advise the other agencies of government.

But on this bill here, very often we find what is supposed to be a solution to what is not a problem, and I worked with Mr. Waxman, because he had rather Draconian language in the bill, which would have put limits of an $8 million cap on services and $10 million on goods, and I put some place-holder language in there which I worked out with the Native American community. They would have preferred no language at all, but I put some place-holder language in there just to hold things for awhile.

With that in mind, I would like to address a question to Ms. Schinasi. You indicated, I think, a couple of times now in your testimony that you felt most of this, of not all of this, could be handled administratively. Could you elaborate on that, the problem that Mr. Waxman was seeking a solution for, and I'm not sure there is a problem?

Ms. SCHINASI. The recommendations that we have in our report go to the findings that we developed during our review that said there was some confusion in who was responsible for which piece of managing the 8[a] ANC firms as well as a limitation on the information that SBA had in order to carry out its responsibilities, and the resources that had been devoted, particularly to the part of SBA that was responsible for the local monitoring of the ANC 8[a] firms.

So those recommendations went more to the management of the program and really can be accomplished within the statutes that are now set out.

We did not talk about support or challenge for the program as a whole, and my understanding is that that legislation had to do with what the appropriate level was for contracting dollars to go to the ANC 8[a] firms and corporations, and so that was not within the scope of our work, and was not reflected in any of our recommendations.

Mr. KILDEE. At this point you are not pushing this legislation that Mr. Waxman originally had in the bill or even the place-holder language that I put in to make it——

Ms. SCHINASI. That is correct. We have no position on that.

Mr. KILDEE. You have no position on that. I appreciate that.

I think in all these things we have to recognize that for so many years—when I first started visiting Indian reservations in 1965, in Michigan, some of them were like Third World countries. The injustice was horrible, and now we are finding some sensitivity in government for programs like this, but some people think that every Tribal agency has, you know, got huge casinos someplace, but the poverty that you still find and the need for economic growth in an Indian community and Native American community is still great, and I think whenever we see legislation that is offering a so-

lution for a problem that doesn't exist, we should be very cautious, and probably leave it up to you people to try to find how the law should be administered if there is some problem there and you feel that can be done, I would prefer at this point.

Of course, I will also keep my options open when the administration maybe does do something that we feel is too tight, we can come back and try to soften that too. But at this point I would trust you to take care of that, but hope that my place-holder language, which I worked out with the Native American community, could be just dropped from this legislation and let you do your job.

I yield back the balance of my time.

The CHAIRMAN. The Chair thanks the gentleman from Michigan.

The gentlelady from California, Ms. Napolitano, is recognized.

Ms. NAPOLITANO. Thank you, Mr. Chair.

A lot of the discussion on the oversight of the Native 8[a] program, but Mr. Largent, has there been an increase or a decrease, and can you tell us the amount of appropriations since 2000? And how has that affected the contracting officers? How many contracting officers are there? What is the level of training provided to those officers to be able to deal with the Native Americans and to the Alaskan Natives? Then, of course, the volume of work performed by those officers. Those are all questions that come to mind as I hear you speak.

Mr. LARGENT. Again, my office is not part of the program office that has oversight for the 8[a] program. That would be Government Contracting and Business Development. I am generally aware that we have increased staff. We have had staff-specific training around this issue. As we alluded to earlier——

Ms. NAPOLITANO. That is very general. Could you put it in writing, sir?

Mr. LARGENT. I absolutely could. Yes, ma'am.

Ms. NAPOLITANO. Because that is very general. I could just tell you something and not be able to back it up with facts and figures.

It just begs the question because I can't remember the year but not too long ago SBA's budget was supposed to be cut by 43 percent. Now that means a lot across the board. Now, of course, that came back because there was a hue of an outcry from the small business community, and most of it was put back. I think 33 percent. But it begs the question of how much is actually being put into the SBA programs to help achieve this.

Then the other issue that came up, you mentioned the fact that small business finds it hard to get loans from the lending institutions, the ANCs. Have you tried credit unions because they have an agreement with SBA to be able to do small loans? And I am talking micro 2, I am not sure of the amount, but they have done a wonderful job in supplanting the banks' inability to do the small loans because they don't want to spend the time and the money to do that, and that is a known fact. Have you?

Mr. LARGENT. With respect to your first question, I have staff right behind me. We will get back to you in detail on that question.

In regards to your second question, the issue is not so much the size of packaging a loan, although banks are sensitive to that, we have programs such as Community Express which require very little documentation. The issue is sovereignty.

Ms. NAPOLITANO. OK.

Mr. LARGENT. Banks have no recourse in the event of default. There is no way to go in and recapture any collateral because Tribes are sovereign nations.

Ms. NAPOLITANO. Right.

Mr. LARGENT. So we are having extensive conversations not only in my agency but Indian Country-wide, and most of the people in the room behind me can talk to you in detail about this, on how we can address that issue.

Ms. NAPOLITANO. Is there a possibility then that your specific area of expertise might be able to help develop the greening of some of the Tribes, the focus on being able to learn how to green?

And you talked about wind turbines and others. What about solar panels? That is something that is going to have to be in the future for us to save electricity and the energy because we are having global warming, and drought in the Western states, which means there is not enough water in the rivers and the dams to be able to generate the electricity.

So if we are then able to start a process of teaching them where to begin setting up so they can connect to a grid and sell their electricity, is that something that you might be able to look at and begin to foster?

Mr. LARGENT. All of these are under discussion. There is a new assistant secretary or deputy assistant secretary, I believe, at the Department of Energy who I am in very close contact with, and we have regular conversations about this, as does most of the Indian Country. So yes, these are all opportunities that we are looking at.

There are fundamental and structural issues that need to be dealt with ahead of time. We can't rush head-long into this, throw capital at something, and then realize that we missed a component. So it is thoughtful and cautious, but there are approaches we are looking at.

And as an aside if I may, I would like to thank Congressman Kildee because I am also one of the recipients of the Michigan Tuition Waiver Act.

Ms. NAPOLITANO. I would love to maybe have some conversation with both—actually all three—because I am the Chair of the Subcommittee on Water and Power, and the grids are under the jurisdiction of my subcommittee.

Mr. MIDDLETON. Congresswoman Napolitano, if I could address that. Part of the program that I administer is energy development, and we are working closely with a number of tribes on energy development, on renewable energy resources, wind, solar, biomass, geo-thermal. A number of tribes would like to reach out and in fact develop more extensively their opportunities for renewable energy development, and are doing so.

So we are working in partnership with the Department of Energy, the National Renewable Energy Lab in Golden, Colorado, to go out and determine whether in fact they have sufficient wind resources to be able to in fact establish wind turbines.

One of the problems we are running into though is in fact that when Tribes determine that they in fact have wind resources getting access to turbines has become problematic because, as the renewable—I am sorry—the subsidy for renewable energy gets re-

newed every two years, there is a big spike on requests from companies that are actually out there doing it for a for-profit, and Tribes need to be able to put money down to be able to even get in line to be able to gain access to the turbine industry, turbines that are being developed. So we are working through that with tribes, but we think there is a large opportunity for wind development, particularly in the northern plains, and getting access to the grid through the Western Area Power Administration is a key opportunity for us to develop the resource.

Ms. NAPOLITANO. Thank you. And certainly wind is one of the energies that we should be able to develop and foster the growth of, but also solar power. The National Electrical Contractors are teaming up with the IBEW to do a lot of greening of businesses which could be a new way of being able to address energy consumption by the business, which is their largest portion of expense.

Thank you, Mr. Chair.

The CHAIRMAN. The gentleman for Puerto Rico, Mr. Fortuño.

Mr. FORTUÑO. Thank you, Mr. Chairman, and I commend you for this hearing, and I join my colleagues in congratulating Mr. Kildee on his birthday, certainly. I also apologize for being late, and having to leave also—a number of us are having three hearings, including some markups at the same time during this morning.

But this is a topic of interest to me. I believe there are some parallel comparisons to the territories, and that is why it is of interest to me, and I was wondering if anyone may want to comment on I wonder if the programs are in place are doing what they are supposed to do. I have read at times the concern that there will be a—that anything we may do may be or may impact in any way culture or way of doing things for many centuries, but by the same token certainly, I believe we have a common interest in developing an entrepreneurship amongst different Tribes.

So I am wondering if what we are doing makes sense and where are we failing. It is the educational system? Where are we failing here. I don't know if you want to comment on that, any of the three.

Mr. MIDDLETON. I think from our department's perspective that, although we haven't done as good a job in the past as we possibly could have. I think things are changing for the better, and the 8[a] program is one of the tools that has been in place that is allowing us to make progress, but there are other things we are doing such as trying to teach at a young age entrepreneurship and the meaning of business development, financial education of those types of opportunities.

In addition, many of the Tribes are recognizing that they need to make some changes in order to take advantage of the opportunities they have for business development. Many tribes looked at changing their constitutions because they realize that the constitutions in fact may have been holding them back. The Crow Tribes is one example of this. Other Tribes are looking at the way their governments are structured, realizing that if they have a separate business arm, that they in fact can grow their own expertise for developing their business opportunities and business resources rather than making everything a political decision that is looked at by

new administrations within the Tribe as being past administration's policy.

In addition, we have a number of tribes, such as the Southern Ute, that have done very well in managing their growth fund and managing their energy and mineral resources. They currently have a AAA bond rating on Wall Street, which is significant, and they own partial interests in a number of let us say offshore oil and gas wells. So they in fact have grown the expertise they need to move forward, and many other Tribes are seeing this and taking the examples to heart, and trying to decide what they need to do in fact to put them on parallel with some of these successful Tribes that have developed economically.

Mr. LARGENT. I would just say that Dr. Middleton's comments are accurate, 100 percent accurate, that economy in the sense of the U.S. economy is a new concept to Indian Country. In my opening testimony, I talked about forming a company in 1976. That was 31 years ago. And people in my community came to me and said, what made you think you could do that? They truly were perplexed. Where did the idea come from and where did the confidence come from that I could actually run a business? That was 31 years ago.

So it was the advent of gaming for some, and I recently read a report, and if I am correct, I think it said that 37 percent of all gaming dollars in Indian Country are controlled by 15 Tribes, so it certainly has not been an across-the-board distribution. But gaming has given some tribes at least to beginning to start the seed capital to go out and now diversify, and the Tribes that have had the best leadership, the most consistent leadership, well educated workforce, access to markets, and a culture that understood the importance of this have done very, very well. Chickasaw comes to mind, doing a remarkable job. Still a long ways to go, but a remarkable job relative to the Tribe's that Congressman Kildee was just talking about where you go in, there is just no activity at all.

So I think we are heading in the right direction. We are making progress. I think we need some time.

Mr. FORTUÑO. Thank you.

The CHAIRMAN. Gentleman from Oklahoma, Mr. Boren.

Mr. BOREN. Thank you, Mr. Chairman. I appreciate—sorry I was also late, had several meetings. We have 200 Oklahomans who have flown in this week, and so we have a lot of different meetings. I am glad to see my good friend Mr. Cole, and also our great Oklahoman Neal McCaleb being here today as well.

We have 39 federally recognized Tribes in Oklahoma. So many of them are doing great things, creating small businesses, employing a lot of people. In my district, Tribes like the Chickasaw Nation, the Choctaw Nation, and others, my concern is making sure that we have everyone, all of our smaller Tribes in the northeastern part of my state we have Tribes like the Quapaws and the Miamis and other tribes who need—we need to make sure that everyone has a chance, and I appreciate the efforts of the Small Business Administration and also of Tribal leaders in making sure that we diversify our economies.

I want to thank the Chairman for holding this hearing, and for letting me be a part of it. Thank you.

The CHAIRMAN. Thank you, Mr. Boren.

No further questions. We will proceed to our second panel. The Chair again thanks the panel for their testimony and service.

Our next panel is composed of The Honorable Tex Hall, Chairman and CEO, Inter-Tribal Economic Alliance, Mandaree, North Dakota, and speaking of birthdays, just had a birthday yesterday so we wish Tex a birthday as well. This seems to be happy birthday day; The Honorable Joe Garcia, President, National Congress of American Indians, Washington, D.C.; Mr. Greg DuMontier, Chairman of the Native American Contractors Association, Washington, D.C., and Ms. Julie Kitka, President, Alaska Federation of Natives from Anchorage, Alaska.

Lady and gentlemen, we have your prepared testimony. It will be made part of the record as actually read, and Tex, we will start with you, and just a warning, we are expecting three roll call votes shortly on the Floor of the House so we may be having to recess during this panel's testimony. Tex, welcome.

STATEMENT OF THE HONORABLE TEX HALL, CHAIRMAN AND CEO, INTER-TRIBAL ECONOMIC ALLIANCE, MANDAREE, NORTH DAKOTA

Mr. HALL. Thank you, Chairman Rahall, and Ranking Member Young, and Members of the Committee, Co-Chair Kildee and Co-Chair Cole, thank you for your service to Indian Country. It is a great honor, Chairman Rahall, to speak to the Committee on this topic of diversifying Native American economies.

I want to make sure the Committee knows that this is one of the hot topics in Indian Country today, is diversifying the economies. So you are right on target, Chairman Rahall.

I do want to say that I am grateful to you and your staff for the outstanding work that you have done on behalf of Indian Country, and the Committee. Twelve hearingss, 12 issues, critical issues, you have already marked up 12 Native American bills that include the Indian Health Improvement Act, and the Native Hawaiian Government Reorganization Act, and today's hearing on economic development is just an extension of the work and the commitment that you have shown to Indian Country, so thank you, Chairman Rahall, for your work on that.

Today I am here as the Chairman of the Inter-Tribal Economic Alliance, which I helped co-found in 2001. When I first became National Congress of American Indians' president, the topic of economic development, high unemployment, high poverty rates was discussed at that time and long before that. So we thought a need for an economic development organization like the ITEA was needed to really create jobs, and we put a goal out there of 200,000 jobs because of the high unemployment and high poverty on the reservation, on the Native Alaska villages, and the homelands, so we thought creating new businesses is critical and key to putting a dent on this poverty.

So experience has taught us that we cannot rely solely on the Federal government to win this war on unemployment and poverty, and we had to take this challenge in Indian Country up ourselves, and so we have. And so ITEA has created new businesses since 2001 in energy. We have created a private equity fund, a $200 mil-

lion private equity fund, multi-tribal construction, a natural beef and buffalo that is chemical free, uses all natural grass fed, telecommunications and also we are managing a contract with the Marine Corps, an $80 million contract for digitization and document conversion for military manuals.

Nonetheless, as we heard today, poverty is still widespread. It is still over 31 percent, and that is almost a third of our Native families, and today Native American households report a median income of over $33,000. We must simply do better than that.

As we know, the United States has a treaty-backed trust responsibility to Indian Tribes, and that responsibility must extend to economic development because you understand just how important diverse Native economies are. We are certain that we use the full power and jurisdiction of this committee to protect and defend the programs such as the Native 8[a] programs that are working in Indian Country, and have created new jobs and economic opportunities.

So the 8[a] is a prime example of the Federal initiative that created these real benefits. It is working. I wish, as Eni was talking about, Congressman, that it should do more, and I think we really should be talking about those discussions about how to improve. As we all heard, it is less than 1 percent of all procurements set aside for Native businesses.

So I think there is many new Native businesses that are just starting. Some haven't got contracts. And there is many that are back logged in the application process, waiting to get SBA certified. So we somehow have to address those that are not even certified that haven't got the opportunity, Mr. Chairman.

But I do want to focus on the last few comments, as I know my time is short, and that is, the proceeds from the Native businesses, the Native Tribal businesses go back into the community, there is no question about that, and I think that is a huge misunderstanding when you have individual entrepreneurs and companies that are looking at the profit and the bottom line that are benefitting for their company versus a Native Tribal company, and that is part of the culture of Native America, I mean, that the benefits go back into the Tribal community.

So I have never heard that discussion talked about from any of the discussions, and I have been around for awhile, Mr. Chairman, as you know, and I haven't heard that discussion at the table about what is the difference between Native businesses and individually owned corporate businesses where those benefit that individual.

So I think that was the reasons that Congress created the Native 8[a] program in the early 1980s or late 1970s or thereabouts, and so it is troubling to now, 2007, and it appears that some Members of Congress still do not have that understanding that that is the major differences.

Health care, we know that it is less than 50 percent funded, so we know that new diabetes equipment will be purchased by some companies with those profits. We know that eye glasses, dentures for the elderly program, a ramp so they can at least get up their stairs into their house are many examples of how these profits benefit the elders and then the head starts and the playground equipment. That is a lot different scenario than what is being portrayed

on many of these Native businesses that are supposedly taking advantage and getting billions and billions of dollars. It is simply not the case, Mr. Chairman and Members of the Committee.

And here at ITEA, we created six companies in the last few years. Because we are about 400 miles from the closest BIA regional office, we are 400 miles from the SBA office, we are in the middle of North Dakota and South Dakota, and so we have to find a table somewhere and say let us look at our ideas, and let us try to create something here based on what we have in front of us. And we had grass, so we said beef and buffalo. We have wind and solar. I am glad Congresswoman, you really stressed that. Getting access to the grid though is really critical. We can put all of the wind turbines we want, but if we don't have access to the grid it is just going to sit there.

There is a book called "You Damned Indians," and that is because they dammed us up. They should at least let us get access back to that dam transmission if they are going to dam us up.

So in closing, Mr. Chairman, we are really—I must say about gaming is that in working with the National Indian Gaming Association, they have come a long ways in working with us on a potential agreement with the Inter-Tribal Economic Alliance to assist us in developing that private equity fund to create—if we created a number of small businesses, that 200,000 job initiative, putting that war on poverty would—we could actually accomplish that. So the gaming Tribes are looking to invest in the private equity fund and assist small business development.

So thank you, Mr. Chairman, for allowing me to talk a little bit about the Inter-Tribal Economic Alliance.

[The prepared statement of Mr. Hall follows:]

Statement of Tex G. Hall, Chairman and C.E.O., The Inter-Tribal Economic Alliance

Dosha! Good morning Chairman Rahall, Ranking Member Young and distinguished members of the U.S. House Committee on Natural Resources. Thank you for your invitation to appear before the Committee on Natural Resources, particularly on the topic of Diversifying Native Economies. This is a powerful subject and one that we in Indian Country, our leaders and our communities are talking about all across our great country. We are grateful to the Committee for its remarkable record of activity which shows just how seriously the Chairman cares about the needs of Indian Country.

My name is Tex Hall and I am Hidatsa and Mandan. I served two terms as the President of the National Congress of American Indians and eight years as Chairman of the Mandan, Hidatsa, and Arikara Nation in North Dakota.

I am here today as Chairman of the Inter-Tribal Economic Alliance (ITEA), a national engine of economic development whose mission is to create communities of hope on American Indian reservations, Alaska Native villages and Native Hawaiian homelands. The ITEA was formed in 2001 by Native leaders hailing from many states across the nation and we are a tribally-driven business. We work day-in and day-out to fight poverty by creating new business opportunities and new jobs in diverse industries such as information technology, private equity, energy development, natural beef and buffalo, and call center operations.

Poverty remains widespread across Indian Country. According to the 2000 census, the poverty rate on reservations is 31.2 percent while nationally 24.3 percent of American Indians and Alaska Natives live in poverty, a rate more than twice that of Whites and Asians. Native American households report a median income of only $33,132.

While Native Americans are making progress in pockets around the country, the big picture remains that we lag well behind the rest of the nation. We can and must do better. The condition and state of Indian country, however, has many fathers. Over the last 200 years, our federal and state governments, whether legislative

bodies like Congress or various government agencies, have all played a role in landing us in the condition we find ourselves in today. Nevertheless, those same actors can make amends and help us in forging a bright future ahead of us. All we ask is that the United States acknowledge its treaty-backed trust responsibility to the first peoples of this nation and support, strengthen and protect programs that have successfully advanced our economic well-being.

Chairman Rahall, Committee members, your call for a hearing on the topic of Diversifying Native Economies is a good beginning to work together. We welcome the dialogue and being asked to the table to create a new future for our people, for Indian Country.

Native Communal Commerce

We believe that native communal commerce works. It is what Native governments believe in and it has worked for them for thousands of years. Native communal commerce is very different, in fact it is the opposite, of what the United States government has been trying to force on Native peoples through federal policies for the past two hundred years. The ITEA itself is a model of communal commerce.

In native economies, the benefits and profits of work and industry flow back to the community. They do not flow back to individual business owners. For instance, the ITEA is structured so the profits of all of our ventures flow back to tribes. The profits from our businesses, for instance, go back to a tribe and are used to invest in health care, housing, and schools. This is a profoundly different model than say, IBM or even Univision, where corporate profits are distributed to individual owners or investors.

Indian Country believes that the Native communal model works well and better than any of the failed models of commerce—the General Allotment Act program or the Indian Reorganization Act—forced upon us by the BIA or the Interior Department and the Congress. And with the Committee's support of the ITEA's efforts and federal programs that actually do work, together we can start jump-start a period of unprecedented economic growth.

That growth is the point of having Diversified Native Economies. We ought to have federal policies and programs that do not measure our tribal enterprises against individually-owned businesses or stockholder-owned corporations. Doing so entirely misses the tremendous gifts our communities have to offer the marketplace—an untapped and unified resource of labor in some of the most remote and rural communities in the country. Our Tribal governments and business enterprises are located in 35 of 50 states, with 56 million acres of trust lands and a million plus man and woman work force, a large portion of which is either underemployed or unemployed.

While Native peoples and our federal government share a tragic history together, we have the power to change the course of that relationship. But it will require the federal government to support policies that have worked and embrace economic strategies that guarantee the growth of our native communal businesses into the larger marketplace.

Small Business Administration

The Small Business Administration now runs a solid program to diversify our Native economies. The SBA 8(a) program, specifically the provision for Native 8(a) firms that consist of Tribal and community owned firms is in its infancy, yet from a policy approach and understanding of the communal nature of our enterprises, this program got it exactly right. The Native 8(a) program embraces our communal approach to commerce, encouraging our Tribal and Native corporations that are owned by entire communities to enter the federal government contracting industry.

The ITEA strongly believes that the Native 8(a) program works. The program recognizes that Native 8(a) firms are not investor-owned like other conventional businesses. Instead, it recognizes that Native firms are community-owned, and that they use revenues to address the social, economic and cultural well-being of communities—truly a double bottom line. And the 8(a) program does not require a single appropriation of federal funds, but rather the inclusion of the unique enterprises of Native communities in providing quality product to our federal government, while serving the social good.

The ITEA is been troubled by the statements of some that would frame the tiny 0.2% awarding of all federal contracts to Native 8(a) firms, and in particular, Alaska Native Corporations, as a threat rather than a success that should be nurtured. Some members in this Congress have even gone so far as to criticize Alaska Native enterprises for doing government work outside of the state of Alaska. The Committee should make it unacceptable to carry the failed policies of the early part of the last century into the present and into our future. Our tribal enterprises must

be encouraged to grow beyond our reservation and village boundaries and be allowed to participate nationally, and indeed, globally.

IITC—A Tribal 8(a)

At ITEA, one of our first initiatives to diversify our Native economy based on the communal commerce approach is the Intertribal Information Technology Company (IITC). It is the first Tribal 8(a) government contractor owned by the three indigenous groups of our great country, consisting of nine federally recognized Indian Tribes; two federally recognized Alaska Native Corporations and one Native Hawaiian nonprofit. There are no individual investors, ensuring that the profits of this Tribal 8(a) are returned to the social, economic and cultural mission of our respective communities.

IITC owner firms are located in eight states: Montana, Wyoming, Hawaii, North Dakota, Alaska, Oklahoma, New Mexico and South Dakota. Under the SBA Native 8(a) program, we have forged ahead to make a national impact and also serve our nation's men and women that are serving our country in the military. IITC is providing the Department of Defense with digitized versions of maintenance manuals for aircraft, ships, vehicles and a variety of equipment used every day on the ground by our troops. We have digitized hundreds of thousands of pages, including maintenance manuals for the Apache Helicopter, Armored Utility Trucks, Landing Crafts and Fire Fighting Vehicles. We are proud to be working on a project that we know helps to keep our troops safe.

Tapping into our national labor pool, IITC created over 300 jobs directly inside rural Native American communities, from as far north above the arctic circle in Barrow, Alaska to as far west as Anahola, Hawaii, as far east as Parshall, North Dakota on the Fort Berthold Indian Reservation and as far south as the Zuni Indian Reservation in New Mexico. IITC, like every Tribal or ANC 8(a), has become a part of our national economy and is creating jobs in eight states in the country. It is one small example of the good the Native 8(a) program has done and is an example of what can be accomplished when a federal program embraces our communal approach to business.

Non-Gaming Business that In-Sources to Rural America

There is no question that Indian Gaming has had an unprecedented economic impact in Indian Country. Yet, as we all know, the vast majority of tribes do not benefit from gaming. So, while we know that gaming tribes have generously shared their wealth with the non-Native communities around them, and with many other tribes, the fact is that gaming cannot, and will not, be the end-all to the socio-economic problems of Indian Country.

In other words, we must diversify and strengthen the foundation of commerce across Indian Country, by embracing our best business tools of Tribal and community enterprises. We can then produce opportunities to in-source jobs and impact local and rural economies inside our country versus overseas. But, we have learned that if we want it done, we are going to have to do it ourselves. And that is what the ITEA brings to the table—initiative.

The ITEA has taken a new step to build even further on the IITC technology company ability to tap into a national labor pool for data conversion. The ITEA is now finalizing a business plan to add call centers in partnership with various Tribes and Tribal firms. Call centers have the potential of employing thousands, and establishing our rural communities as hubs for national and international commerce. And what we are doing is truly patriotic. Instead of outsourcing jobs to third world countries, we are keeping those jobs, benefits, and spending money in the United States. We believe in-sourcing to American Indians works not just for Indian Country, but for America.

Another ITEA project is the first-ever national tribally-run private equity fund. As you know, the world of private equity brings significant investment opportunities for tribes. The ITEA is taking advantage of this opportunity by partnering with major Wall Street firms and advisors to open a private equity fund that will invest large sums of money in Native start up businesses, energy projects, real estate as well as traditional securities and bonds. With the support of major gaming tribes, we are positioning ourselves to make sure that wealth from gaming reaches all of Indian Country.

Another sector worthy of our attention for diversification and expansion is in energy resources, and making good use of our Tribal lands and locations around the country. Whether oil and gas, or solar and wind development, Indian Country must be part of the conversation and policy making decisions to encourage investments and partnerships that include our Tribal and Native corporations in the development of cleaner and alternative energy sources.

The ITEA is also partnering with the National Indian Gaming Association to create a Native Business Process Outsourcing company that matches Native suppliers and services with Indian gaming enterprises so that the good and services of Indian gaming are supplied by Indian businesses.

The ITEA is also working with Native cattle and buffalo ranchers to identify and overcome the barriers to bringing the hundreds of thousands of grass fed cattle to market. There are 1.5 million head of cattle raised naturally on 40 million acres of tribal lands across the country. We are bringing the unique all-natural, all-American, reservation-bred product of Native ranchers to the national marketplace.

Summary

In closing, first urge the Committee to enact and support policies that strengthen our communal tribal and Alaska Native corporate status and that eliminate barriers and obstacles. For instance, we ask the Committee to strengthen, and fight against legislation that would restrict, the Native 8(a) program which has allowed Native 8(a) firms to succeed in government contracting. Native 8(a) contractors deliver a valuable product for the Nation, and use their revenues on the social, economic and educational needs of entire Native communities. Native 8(a) businesses are community enterprises and cannot be judged by the same standards as individually-owned businesses.

Second, we ask the Committee to focus its economic development efforts on those industry sectors that yield the greatest diversification and impact in our communities. We suggest the following: energy and access to the electrical grid, information technology and manufacturing, call centers, tourism, fine arts, ranching and farming, and, most importantly, the support of government contracting.

Third, we ask the Committee to invest in the economic infrastructure of Indian Country and Alaska by investing in workforce development and job training that matches the jobs we are seeking to create, and by investing in telecommunication and internet connectivity. The Committee should also ensure that Natives have the access to capital in order to build that infrastructure and thus we ask the Committee to double the ceilings of the guaranteed loan programs of the BIA and USDA.

There is no question that America is stronger when its citizens actively participate in our local, national and global economies. At ITEA, we believe that Native Americans for too long have been prevented from fully participating by a lack of understanding of the strengths, talent, and value in our communities. Chairman Rahall, Diversifying Native Economies is the right discussion and mirrors the conversations and work taking place all over Indian Country.

We can forge a new future by continuing this dialogue and working together. Our past tells a story of what has been good for America has not always been good for Indian Country. This need not be the case—what is good for Indian Country, is good for America. In closing, the ITEA would like to offer to partner with the Committee and assist the Committee in developing a report on Native American economic development that includes goals and timelines.

Thank You.

The CHAIRMAN. Thank you very much, Tex. Joe?

STATEMENT OF THE HONORABLE JOE GARCIA, PRESIDENT, NATIONAL CONGRESS OF AMERICAN INDIANS, WASHINGTON, D.C.

Mr. GARCIA. Singatama. Good morning, everyone. Greetings from New Mexico. Good morning, Chairman Hall, and Members of the Committee. I am honored to be here today on behalf of the National Congress of American Indians, the nation's oldest and largest national organization of Tribal governments.

We hope this is just the first in a series of important conversations on economic development, and diversification of economic development in the Indian Country, and we are looking forward to concrete recommendations and actions as a result.

Although there are examples of Tribes around the country who have prospered, hundreds more are struggling to preserve their reservations, their culture, their language, and their sovereignty, and economic development is one of those ways that these preser-

vations and security can happen, so I am glad that the hearings are being held.

To address these economic challenges, NCAI has held a series of meetings with Tribal leaders, including at the recent National Economic Policy Summit held in Phoenix, and this was in partnership with the DOI to explore the best ideas to move Indian economic development forward.

During these meetings, it has become clear that Tribes have recommended in four key areas:

Number one, the need to improve and strengthen Tribal government institutions, the codes and basically capacity of those governments; number two, the need to give Tribal governments access to traditional governmental tools, like tax-exempt financing and tax credits; number three, the improvement of tribal fiscal and human infrastructure, things like roads and telecommunications; number four, capacity building means the skills to conduct comprehensive planning to integrate all of these components.

True economic development, it must be said that it is not just one area of work. 8[a] is one of those areas. 8[a] is one of those tools. When you talk about economic development, it transpires all—it is a big umbrella, and a comprehensive approach is the best approach that we can implement and we can plan for.

These are examples of things that are not working, the things that I just mentioned, so we have included more information on them in our written testimony. But an example of something that does work is the 8[a] program.

During these meetings, one thing that Tribal leaders made clear was that the government contracting program was one of the few things that is actually working in Indian Country.

Because the Tribal governments do not have the same abilities to raise traditional tax revenue, they must turn to Tribal government enterprises to provide the revenue to support services to their citizens. The government contracting program is considered one of the most effective means for generating revenue and creating local economy for Tribal governments regardless of their geographic location or size.

Over the past two years, NCAI, NACA, and NCAIED have hosted numerous forums throughout Indian Country to develop joint recommendations for improvement to this program. These draft recommendations were recently refined and we are continuing to work on the refinement process.

Our draft recommendations include the following small business government contracting improvements: one, expand small business participation for all participants; two, increase the oversight; three, provide assistance to small businesses as prime contractors, subcontractors or joint venture partners.

In reauthorizing the Small Business Act's contracting programs, Congress should include stronger provisions to ensure that small business actually receive the Federal contract support that has been required by law for many decades. While the Federal contracting market has doubled in size since 2000, small business percentage of that market has declined significantly.

To enable small businesses, particularly 8[a] firms, to compete for a larger share of government contracts, these things need to

happen: expand the pie; modernize the program; include increased net worth thresholds; increase caps on individual 8[a]; find a way to unbundle contracts; increase small business goals to 30 percent; and also maybe demonstration projects; set aside larger contracts to a team of small business contracts.

Increased oversight enforcement by SBA and other Federal contracting agencies of exiting requirements would verify that Native enterprises and other 8[a] and small business concerns are good stewards of taxpayer funds. In order to promote better SBA administration oversight the Federal government should provide support and resources to train SBA staff and authorize an assistant administrator for Native American affairs to oversee and support the program.

While Tribes represent a small percentage of the nation's population, and receive an even smaller percentage of Federal contracts, this program makes a big impact to our local communities. Tribal leaders have told us time and time again over numerous years that this is one of the few economic development tools that actually works in Indian Country.

We want to thank you for giving us the opportunity to speak today. We look forward to continued support of our self-determination efforts and our use of effective economic tools. Thank you so much and blessings be with you and the Committee.

[The prepared statement of Mr. Garcia follows:]

Statement of Joe Garcia, President,
National Congress of American Indians

Introduction

Good morning Chairman Rahall and members of the Committee. My name is Joe Garcia, and I am Governor of Ohkay Owingeh, formerly known as San Juan Pueblo, in the State of New Mexico, and President of the National Congress of American Indians (NCAI).

On behalf of the National Congress of American Indians, the nation's oldest and largest organization of American Indian and Alaska Native tribal governments, thank you for giving me the opportunity to testify before you today on the important and timely topic of diversifying our Native economies. I would also like to take this opportunity to thank you for your ongoing commitment to building healthy and sustainable local economies in Indian Country. It is our pleasure to be here today to continue what has been an ongoing discussion about how the federal government can best support tribes in our efforts to achieve self-reliance, prosperity, and economic parity through economic development.

NCAI is fully committed to working with our federal partners in supporting existing federal economic development programs that have led to greater tribal and village sovereignty and self sufficiency. We welcome the opportunity today to discuss the current successful components of economic development, suggested improvements, and the need for continued support for the programs that have led to greater local economic diversity and individual opportunity.

We are well positioned to address the challenges and barriers tribal governments encounter when trying to develop their local economies and more important understanding opportunities for positive change. NCAI partnered with the Department of Interior to host the National Native American Policy Summit (Summit) this past may to sort through he challenges and solutions needed to create healthy and vibrant local economies. Vested participants from tribal governments, the federal government, academic community, and the private sector gathered over 3 days to discuss challenges and offer solutions.

In addition to the 300 plus recommendations received from participants for improving access to capital, business development and infrastructure, the Summit identified the overall need for tribal governments to strengthen governing institutions and create effective legal codes for business development. It also revealed the need for comprehensive tribal community planning and the need to improve intergovernmental relationships as key components for proactive economic growth.

Today we will be addressing some of the successful components of tribal government economic development, however, there has been a real and compelling need established at the Summit and in other NCAI venues to continue this discussion to address other challenges and opportunities.

Native Economies—Success

The vast majority of tribes remain in desperate need of meaningful, diversified economic development opportunities. There are a few high-profile examples of tribes around the country who have prospered economically. However, there are hundreds more who remain nearly invisible, who are struggling to preserve their reservations, their culture, and their sovereignty. The social and economic conditions in many Indian communities are comparable to those in developing nations around the world. According to recent federal reports [1], an astounding 9 of the 11 poorest counties in the nation, based on per capita income, are home to Indian reservations.

Conventional thought has often dismissed the feasibility of American Indian economic development. Too often we hear that there is little incentive for investment, either public or private, on Indian lands; that many tribal institutions are too unstable or too weak to sustain development; that the location of many Indian lands are too remote for many types of business; or that the lack of infrastructure prohibits the establishment of businesses on tribal lands. These lines of thinking leads to the conclusion that the only option for Indian nations is continued dependence on the federal government.

Over the past few decades, many tribes and villages, by exercising sovereignty and self determination, utilizing natural resources and taking advantage of existing federal incentives, have begun building successful government enterprises and are participating in the American economy.

It is imperative to note this accomplishment has coincided with the rise of self determination. As the Harvard Project on American Indian Economic Development [2] has confirmed, across a number of indicators, socio-economic conditions are improving in Indian country and tribal economies are becoming more robust. From 1990 to 2000, family poverty rates decreased, real median income went up, housing overcrowding dropped, and more Indians were living in homes with adequate plumbing. Significantly, the Harvard Project discovered that these improvements are found in both non-gaming and gaming communities alike and credits self-determination policies for the progress.

Tribes have been able to produce improvements in their local communities and generate sustainable tribal government enterprises, in large part, by taking greater control of decision making, utilizing available tools, and strengthening governing institutions.

Success for tribal government enterprises differs from traditional corporations that are only responsible for creating a profit for shareholders or from other governments that provide services largely based on tax revenue. Since tribes have limited ability to raise tax revenue and, as responsible governments, they look to create tribal enterprises to produce revenue that is either reinvested to ensure sustainability or used to develop or supplement much-needed programs and services for their citizens'. Congress, in recognition of this unique tribal responsibility and in an effort to fulfill its federal trust responsibilities, has created various tools over the years that have allowed tribes to better serve their citizens' needs and become more self-sufficient.

Not surprisingly, the tools that have proven most effective over the years are those provide an incentive for tribes to pursue self determination. Providing tools and incentives has historically been proven a successful means of positively effecting decisions in the general population. This is apparent when Congress continues to support tax incentives for citizens to own homes and for businesses that provide health insurance for employees. There has also been success when Congress, in honoring our government-to-government relationship, establishes and supports the development of Native economies and fosters government stability through various incentives. As we have learned over the years creating a healthy economy and a stable government are not exclusive but inter-dependent.

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[1] Statistics derived from U.S. Census Bureau data; U.S. Department of Commerce, Bureau of Economic Analysis, Survey of Current Business; and DataQuick Information Systems, a public records database company located in La Jolla, San Diego, CA.

[2] Joe Kalt & Jonathan Taylor, Harvard Project on American Indian Economic Development, "American Indians on Reservations: A Databook of Socioeconomic Change Between the 1990 and 2000 Censuses," (2005).

Tribes, villages and communities have been successful in three primary government enterprise areas—natural resource management, gaming and hospitality, and government contracting.

Natural Resource Management

Tribes have always utilized the management and development of territorial natural resources to serve their populations. Longstanding subsistence activities like fishing and farming, once taken for granted by tribes, were diminished with encroachment and resettlement. The federal government, through the ratification and enforcement of treaties and various acts, have severely limited a tribal government's ability to remain self sufficient by redefining tribal territories and tribal structures—most recently with the Alaska Native Claims Settlement Act of 1971(ANCSA)[3].

With these treaties and acts, the federal government has dramatically reduced tribes' ability to utilize their natural resources, including their land base, to serve their populations' needs. More recently, however, the federal government has supported tribal self determination and a tribal government's right to serve their members needs by supporting those treaties and acts and providing tools and incentives for tribes to continue to utilize the remaining natural resources for the benefit of their members. For example;

- Water rights in the southwest enable Native farmers to continue to use agriculture to support tribal programs and individual self sufficiency.
- Treaty rights, reaffirmed by federal courts as recently as last month[4], allow northwest tribes the ability to continue traditional fishing and ensure the natural resource will be available for the next generation.
- Self determination policies in the form of land management, rights-of-way and market-based land valuation have permitted tribes to go from passive participants to effective competitors in America's natural resource industries with energy being the most notable enterprise.

As this Committee is aware, 10% of the nation's energy natural resources are on Indian lands; and, Indian tribes are willing partners in natural resource development. Tribes have made decisions to manage and oversee their energy resources such as coal and natural gas found within their lands. And today, with tribes exercising self determination by securing the right to manage their own lands and resources, natural resource management serves as an effective industry and economic tool for tribes and villages. Harvesting timber, mining coal, farming, and turning limestone into cement have all been effective means for tribal governments to meet the program and service needs of its citizens.

Success, however, in the form of natural resource management, can be found in a relatively small number of tribes who have managed to hold on to large land bases or have managed to remain in areas with resources to manage. The vast majority of tribes do not benefit from this economic tool and remain in desperate need of economic stimulus.

Gaming and Hospitality

Indian gaming has grown over the past two decades from an uncertain start-up industry for tribal governments to an established, mature hospitality industry with tribes creating competitive destination resorts. Tribes, when given the support to exercise their sovereignty as governments, have managed to build an industry that has allowed them to not only serve their members' program and service needs, but become revenue generators for other governments—all in one generation.

Gaming and hospitality has been an effective tool and a successful industry for those tribes that are located near large population centers and have partner states in the same industry. Although the media focuses on gaming as the face of Native government enterprises, the gaming and hospitality industry has not been a successful economic alternative for most tribes and villages. Just as natural resources as a government enterprise only is successful to a small number of tribes, over half of all recognized tribes have no gaming whatsoever[5], and of those that do, some are not highly profitable and many serve to create local jobs for tribal citizens—especially for those tribes located in rural and remote areas.

Government Contracting

Government contracting has gradually begun to emerge as viable industry for successful tribal enterprise development. Successful contracting proves that, with the

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[3] Alaska Native Claims Settlement Act, 43 USC § 1601 et seq.

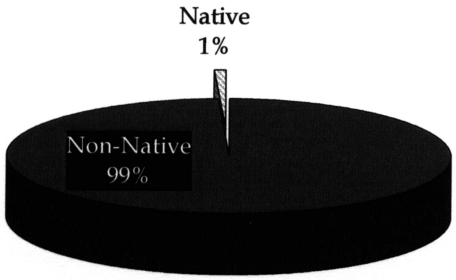
[4] United States District Court, Western District of Washington at Seattle, US, et al., v. State of Washington, et al., C70-9213, August 22, 2007

[5] NIGA, Indian Gaming Facts, 2006 (www.indiangaming.org)

proper incentives, tribal enterprises can generate revenues to help achieve greater self determination and offers the potential of allowing all tribes to participate in the American economy regardless of a tribe's geographic proximity near a population center or its land-based resources.

Economic self-sufficiency is the goal of tribal government entities using existing economic tools or when exerting rights of sovereignty and self determination. This goal can be achieved only through active participation in the U.S. and world economy. In fulfilling the United States' trust responsibility and in promoting self sufficiency among Native American governments, the federal government has provided an economic tool for tribes and villages (through federally mandated Alaska Native Corporations (ANCs[6])) to access the largest purchaser of goods and services in the world—the federal government.

The federal government spent $377 billion on goods and services in 2005.[7] American Indian tribes and Alaska Native Corporations access the federal market through participation in the Small Business Administration's 8(a) program with the added incentive of allowing tribal and ANCs to utilize negotiated sole source contracting. The Department of Defense accurately justified the incentive by confirming it as "...further[ing] the federal policy of Indian self-determination, the United States' trust responsibility, and the promotion of economic self-sufficiency among Native American communities."[8]



Although Native contractors only received less than 1% (.8%) of all Federal contract awards,[9] the program has had notable success for participating tribal governments. The tribal government contracting program has given tribes and villages the ability to create local diverse economies which in turn allow tribes to support and create tribal citizen programs and offer real and substantial career opportunities for members where only limited or no job opportunities existed prior.

Tribes and ANCs, in the spirit of self determination, are offered a choice of business opportunities, and today, are providing everything from logistic support for our troops abroad to environmental services here at home. Tribes and ANCs that are not able to utilize the tribal government tool of gaming or leverage their land-based resources, now can enter business tracks that were previously the mainstay of mainstream corporate America.

Individuals, who had little opportunity a generation ago, now have options. Not just options for jobs, but options for diverse and challenging careers. Rural tribal and village members are now choosing to enter the engineering field or business administration. Members have been able to move up a career path to manage contracts or in some cases, entire companies.

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[6] Federal Contracting Support for Alaska Natives' Integration into the Market Economy, Professor Duane Champagne (Sociology), Professor Carole Goldberg (Law) Native Nations Law & Policy Center, UCLA School of Law, Los Angeles, CA—*"Alaska Native Claims Settlement Act of 1971(ANCSA) has been modified numerous times by Congress, including an amendment in 1988 designating ANCs as minority business enterprises and Congressional language in 1992 designating ANCs as "economically disadvantaged" enterprises. Through this legislation, ANCs and their qualifying subsidiaries have been enabled to qualify for federal contracting and subcontracting, including SBA 8(a) and Department of Defense Small and Disadvantaged Business programs. The purpose of ANC status from the Alaska Native point of view is to assist ANCs in gaining competitive access and capabilities to successfully generate economic growth within the market economy."*

[7] Source: Eagle Eye, Inc

[8] See AFGE v. United States, 95 F. Supp. 2d 4, 36 (D.D.C. 2002), aff'd 330 F.3d 513 (D.C. Cir. 2003) Federal Contracting Support for Alaska Natives' Integration into the Market Economy, Professor Duane Champagne (Sociology), Professor Carole Goldberg (Law) Native Nations Law & Policy Center, UCLA School of Law, Los Angeles, CA

[9] Source: Eagle Eye, Inc

More important for tribal governments and U.S. taxpayers is that the program allows tribal governments to build an economy, educate its citizens and create tax revenues that are returned to the federal coffers. The program has been a proven success in giving tribal governments a hand up and not a hand out; meaning our taxpayers are receiving far more value. For example,

- A remote village in Alaska, only accessible by car when the river freezes, now has a small local economy created from a Native Alaskan firm's entry into the highly competitive government contracting space. A recent profit was earned by its shareholders, many of whom used it to purchase higher-priced diesel fuel needed for the long, harsh winters.
- In Montana, Salish & Kootenai represent their values to the rest of the world through their successful government contracting program at S&K Technologies—a firm initially mentored by another tribal enterprise. The Tribe provides information technology and network solutions to the federal government that allows the 4,500 Tribal members residing on the Flathead Indian Reservation the opportunity to compete for jobs in software development and technical training. The Reservation has struggled with an unemployment rate as high as 41%[10] proving the federal government contracting program can work in the most economically challenging tribal environments.
- And, in Maine, a small tribe close to the Canadian border manages a border security contract that generates enough revenue for the tribe to be able to purchase school clothing for its Tribal youth.

While this program is just beginning to realize success, it has not been an easy path. Most tribal businesses struggle for years with losses or marginal revenue. The government contracting businesses, even with the ability to utilize negotiated sole-source contracts, is an industry noted for its complexity and thin margins. The net revenues that are generated are often routed back into the business to ensure ongoing success and the net revenue that is realized as profit is returned to the tribal members and village corporation shareholders in the form of citizen programs. Some tribal governments have been able to use funds for various programs including;

- Scholarship funds established to give tribal members the chance at higher education and fulfilling careers.
- Cultural centers built as a tribute to each tribe or village contribution to their local community and history, and
- Elder programs established to honor and care for those who paved the way.

Tribes realize that economic development, while serving as a key component toward self determination, is a part of their responsibly as a government and a key component to being able to serve the interests of their citizens.

We feel it is important for this Committee and Congress to know that these tools, created to promote self sufficiency in Native communities, are working as the federal government intended. The government contracting program is still a long way from universally building local tribal economies and offering hope to tribal citizens, but in its infancy it already has proved to be an effective tool for those tribes and ANCs who have had the tenacity to compete and profit in the federal marketplace.

Our member tribes, ANCs, villages and Native communities have all given us input on this issue and the message has been simple and clear—keep this program in place, it is working [See Resolution Attached].

With a directive from our members, NCAI set out to evaluate the program, listen to those who have had concerns, and try to understand misperceptions. We heard from our members about economic challenges and opportunities during a national summit help jointly with the Department of Interior. In addition, a joint working group was formed consisting of NCAI, Native American Contractors Association (NACA) and National Center for American Indian Enterprise Development (NCAIED) to ensure we were representing the vested American Indian entities and speaking with a unified voice. In March of this year at the 2007 Reservation Economic Summit hosted by NCAIED, our three organizations developed a joint statement on contracting issues [see Joint Statement attached].

Evaluating concerns meant meeting with and carefully reviewing the report and recommendations contained in the April 2006 Government Accountability Office (GAO) report on ANC 8(a) contracting. [11] The GAO recommendations centered on the need for greater oversight activities by the Small Business Administration (SBA) and federal agencies. To evaluate potential program improvements, we also

[10] DPHHS Survey—February 2002

[11] United States Government Accountability Office, Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight, April 2006 Report to Congressional Requesters—GAO 06-399.

met with the SBA to discuss and jointly develop proposals to address the GAO's recommendations as well as its own.

We listened to other SBA 8(a) participants and worked with various organizations like the Minority Business Roundtable. We have been trying to dispel program misperceptions that often arose from the statements or actions of a single entity striving to promote a universal viewpoint without giving voice to alternative perspectives.

As a result of the joint efforts of NCAI, NACA and NCAIED, we respectfully submit that Congress should consider the following small business government contracting improvements that would expand small business participation for all participants, increase oversight and provide assistance to small businesses as prime contractors, subcontractors or joint venture partners.

A. Expand Small Business Contracting Opportunities

In reauthorizing the Small Business Act's contracting programs, Congress should include stronger provisions to ensure that small businesses actually receive the federal contract support that has been required by law for many decades. While the federal contracting market has doubled in size since 2000, small businesses' percentage share of that market has declined significantly. This is a result of a limited procurement workforce in the federal government, an increase in overseas contracts, lax compliance with subcontracting plans, and barriers that would allow small businesses to compete for larger contracts.

To enable small businesses, particularly 8(a) firms, to compete for a larger share of government contracts, the federal government should take immediate actions to reverse these trends, including enhancing incentives for contracting officers to increase awards to 8(a) and other small businesses. In considering small business contracting legislation, Congress should adopt provisions to:

- Support tighter limits on bundling and consolidation of contracts, break up such contracts for award to small businesses, or employ procurement procedures to enable teams of Native enterprises and other small businesses to pursue larger contracts, such as contracting agencies issuing a Request For Information (RFI) to small businesses so they have a chance to form teams to pursue these larger contracting opportunities;
- Increase the Government-wide contracting goals for awards to small business of up to 30% of total contract awards to small business, and not less than 8% of total contract and subcontract awards to small disadvantaged business concerns;
- Include overseas contracts within the Government-wide contracting goals and require reporting of awards to small businesses as prime or subcontractors performing contracts overseas;
- Ease or increase the thresholds on individual net worth and on competition, including annual inflationary adjustments, for individuals seeking to qualify and retain eligibility for 8(a) program participation;
- Encourage small businesses with larger contracts to implement subcontracting plans to develop stronger business alliances among all types of small business contractors, including 8(a) and other small disadvantaged concerns, HUBZone, service disabled veteran-owned, women-owned and other small businesses; and

Revisit size standards, including indexing them for inflation.

B. Improve Administrative Oversight and Enforcement

Increased oversight and enforcement by SBA and other federal contracting agencies of existing requirements would verify that Native enterprises and other 8(a) and small business concerns are good stewards of taxpayer funds. To foster better SBA administrative oversight:

- Improve SBA's implementation of the 8(a) provisions applicable to Native enterprises by authorizing an Assistant Administrator for Native American Affairs to access all the SBA programs to improve the support provided to Native enterprises through contractual, financial and technical assistance;
- Strengthen SBA's authority to negotiate higher goals with individual contracting agencies, and require them to be more accountable for their past performance and future plans for making more small business awards so as to meet their goals in each subcategory of small business contracting;
- Support provisions to reinforce SBA's and other contracting agencies' efforts to track, monitor and enforce anti-bundling requirements, and set aside and other procedures (including subcontracting plan compliance) to ensure that small business and small disadvantaged business contracting goals are met or exceeded; and

- Afford SBA sufficient resources to rebuild and train its staff to improve implementation of the 8(a) and other programs to assist all small business contractors in accessing the tools necessary to compete successfully and receive a fair share of federal contracting opportunities.

Conclusion

A few in Congress have suggested fixes to the government contracting program that would disproportionately affect tribal governments and ANC enterprises by limiting or removing incentives. The program, while in need of some improvements, is not broken and major fixes are unnecessary. This same conclusion was confirmed by the GAO in their recommending only administrative, not legislative, proposals for improvement.

Limiting tribal government enterprises' access to the federal market place will have distressing effects to Native communities. Tribal governments will need to look to Congress to establish a additional tools to deal with the critical need to strengthen local tribal and village economies so that tribal governments will have more—not fewer—resources and opportunities to provide programs and services for their citizens.

With high rates of poverty, low per capita incomes, lower levels of education, many health problems, many social problems including high suicide rates, high rates of crime and incarceration[12], we all should be looking to improve programs that work like the tribal government contracting

We want to thank you for giving us the opportunity to speak today on diversifying our economies. We look forward to your continued support of our self determination efforts and our use of effective economic tools.

The CHAIRMAN. Thank you, President Garcia.

Mr. DuMontier.

STATEMENT OF GREG DUMONTIER, CHAIRMAN, NATIVE AMERICAN CONTRACTORS ASSOCIATION, WASHINGTON, D.C.

Mr. DUMONTIER. Thank you, Chairman Rahall and Ranking Member Young. Thank you for this opportunity to testify before the House Natural Resources Committee to create a strong native economies.

My name is Greg DuMontier. I am the Chief Executive officer of S&K Technologies. We are an information technology firm owned by the Confederated Salish and Kootenai Tribes in western Montana, of which I am a member. I am also the Chairman of the Native American Contractors Association, NACA, and I am here to speak on behalf of NACA.

As you know, Congress has focused on a lot of Federal procurement reform and oversight of government contracting practices and sole source awards. These reform initiatives have had already a significant and disproportionate impact on Native communities. We are but a sliver of Federal contracting, as we have discussed. Yet we face proposals to eliminate or diminish our contracting preferences.

The record simply doesn't support these types of proposals. The GAO, as you have heard, studied ANC participation in the 8[a],

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[12] Federal Contracting Support for Alaska Natives' Integration into the Market Economy, Professor Duane Champagne (Sociology), Professor Carole Goldberg (Law) Native Nations Law & Policy Center, UCLA School of Law, Los Angeles, CA Sourced as: Scott Goldsmith, Jane Angvik, Lance Howe, Alexandra Hill, and Linda Leask Status of Alaska Natives 2004 (Anchorage, AK: Institute for Social and Economic Research, University of Alaska, Anchorage, 2004), pp. 2-14, 3-2 to 3-39, 4-2 to 4-14, 5-2, 6-2 to 6-6; Alaska Native Policy Center, Our Choices, Our Future: Analysis of the Status of Alaska Natives Report 2004 (Anchorage, AK: Alaska Native Policy Center, 2004); The Harvard Project on American Indian Economic Development, Native Nations, pp. 326- 329.

and didn't recommend any legislative change to the program. They did recommend administrative actions to improve oversight.

We are just now getting a foothold in the marketplace after being left out, locked out, or elbowed out for decades. With some modest success, we now represent that very small slice of the pie, the less than 1 percent that we have talked about. However small that that might be, it is beginning to have a huge impact in Native communities.

The benefits and services that Native communities receive result directly from the profits that our Native enterprises realize from government contracts. It is a win/win for the Federal/tribal relationship.

Many of the witnesses today have provided different examples of our success, but I would like to focus on one of the biggest misconceptions or misperceptions that has been out there, and that is that Native enterprises somehow are awarded contracts and then simply subcontract all of the work to subcontractors in violation of SBA's limitations on subcontracting regulations. This criticism is flat wrong. The SBA's regulations require 50 percent of personnel costs to be borne by any 8[a] performing a service contract, and we support this regulation and comply with it. To improve the transparency and compliance with this requirement, NACA developed a best practices guide which recommends that Native enterprises develop a mechanism for tracking compliance of this requirement.

My company, S&K Technologies, has already created a senior-level management office whose responsibility it is to monitor and track compliance with all SBA 8[a] regulatory requirements, including the performance of work requirement in each contract.

Also, through the SBA Tribal consultation process, NACA will recommend how reporting on this requirement can be improved. Moreover, the Federal procuring agencies are responsible for overseeing compliance of this requirement as has already been discussed today. The GAO in its report noted that procuring agencies are often not aware of this responsibility.

The NACA recommends that the SBA revise its partnership agreements so procuring agencies are aware that they are responsible for monitoring 8[a] compliance with this requirement.

Let me be clear. Native enterprises do not simply pass through work to subcontractors. That would be self-defeating because it wouldn't provide long-term revenue streams which Native communities need to provide basic services and Native enterprises would miss the opportunity to develop new capabilities. It just doesn't happen.

In conclusion, there is still tremendous work that needs to be done to effect positive and sustainable benefits in Native community participation in the 8[a] program. Remarkably, this is already being done by providing access to the private sector market, building technical expertise to the Mentor-Protégé and teaming arrangements, and providing access to a market with relatively low capital costs. The continued economic success and well being of Native communities depends on the combined and sustained efforts of Indian Tribes and the ANCs, the Federal government, and the private sector. We are counting on you to help continuing this progress.

The Native 8[a] program offers the Federal government great returns and great value with little Federal investment. NACA would like to offer the following recommendations:

First, this committee should play a proactive role in any future attempts to restrict or eliminate the Native 8[a] program. We need your help in educating others in the importance of this program.

The second recommendation is that this committee should support and facilitate the efforts of NACA, the National Congress of American Indians, and the National Center for American Indian Enterprise Development in taking actions to enhance contracting opportunities for all small business contractors as well as our ability to work together.

This could involve facilitating meetings and discussions with other committee, such as the House Small Business Committee, or the House leadership, and certainly with the administration.

I thank the Chairman for the opportunity to speak before the Committee today, and I certainly look forward to your questions. I would much rather talk with you than to you. Thank you.

[The prepared statement of Mr. DuMontier follows:]

Statement of Greg DuMontier,
Native American Contractors Association

Good Afternoon Chairman Rahall and Ranking Member Young. Thank you for this opportunity to testify before the House Natural Resources Committee about the growing success of the Small Business Act's 8(a) program in advancing the economic self sufficiency of Native Americans. My name is Greg DuMontier, and I am the President and Chief Executive Officer of S & K Technologies, Inc., a tribally-owned Information Technology firm. I am also a member of the Confederated Salish and Kootenai Tribes (CSKT) of the Flathead Reservation in Western Montana, and the Chairman of the Native American Contractors Association, NACA. I am here before your committee speaking on behalf of NACA.

NACA was formed in 2003 as a voice for Alaskan Native Corporations, Indian Tribes and Native Hawaiian Organizations ("Native Enterprises"). Our mission is to enhance self-determination through preservation and enhancement of government contracting participation based on the unique relationship between Native Americans and the federal government. NACA represents 19 ANC, Tribal, and NHO Enterprises.

Introduction

In the 110th Congress there has been a significant focus on federal procurement reform largely in response to contracts awarded for the Iraq war, Afghanistan and Katrina resulting in intense scrutiny on investigations and oversight of government contracting practices and non-competitive awards. These reform initiatives could have a significant and disproportionate impact on Native communities. Notwithstanding the fact that we are but a sliver of federal contracting, we face several proposals to eliminate or diminish the Native 8(a) contracting preferences.

The record does not support these proposals:

- The GAO studied ANC participation in the 8(a) program and did not recommend any legislation change to the program. Rather, the GAO recommended that the SBA and procuring agencies take a number of administrative actions to improve oversight.
- The SBA has initiated a tribal consultation to address these GAO recommendations.
- The Native American Contractors Association (NACA), the National Congress of American Indians (NCAI), and the National Center for American Indian Enterprise Development (NCAIED) are working together to provide recommendations on how 8(a) regulatory compliance can be improved to increase transparency and accountability and to provide legislative recommendations to enhance the ability of all small businesses to have a larger share of contract awards.

Over the past 500 years, Native Americans have suffered from the loss of their land, economic assets and culture. These changes have resulted in the breakdown of many tribal systems, families and communities. By most social and economic indi-

cators, Native Americans are at the lowest rung, struggling with the legacy of rural isolation and stagnant local economies. Nationwide, American Indian and Alaska Natives have suffered from decades of poverty and neglect. The 25.7% poverty rate in Indian Country exceeds that of all other race categories, and exceeded twice the national average of 12.4%, this contributes to the 40% unemployment rate and exceeded eight times the national average. Native communities experience many of the social ills associated with poverty: Inadequate health care resulting in a rate of suicide double the national average, and suffering from other disorders such as alcohol and drug abuse, diabetes, and obesity. Heart disease is the number one cause of death among American Indians with a 71% rate higher than the U.S. average. To top it off, American Indians have a life expectancy of 5 years less than the rest of the U.S. population. Bottom line: too many Native Americans are without the resources and tools to build their communities.

Remarkably, amid the widespread poverty and social distress found in Indian Country, there are increasingly signs of hope and examples of Tribes and Alaska Natives making strides in building strong communities and economies. For example, there are many stories of struggle, such as, the village of Chenega Bay that survived an earthquake and tsunami and rebuilt twenty years later only to be devastated by the Exxon Valdez oil spill. A village member, said that her generation "had even forgotten the word in their native language for hope."

But there is hope now, as Chenega Corporation has a big hand in revitalizing this economically and physically distressed community. You will hear today of many examples of this success through participation in the 8(a) Business Development program.

Small Business Administration Programs

Recognizing that small businesses are critical to our economy, the Small Business Administration (SBA) is charged with assisting and protecting their interests. Congress found that by providing access to the federal procurement market, the business development of small business concerns owned by those who were disadvantaged could be achieved. The SBA has created numerous government procurement programs for businesses owned by disadvantaged individuals and groups. These programs include the 8(a) Business Development program (including Community Development Corporations), the Small and Disadvantaged Business ("SDB") program, the Historically Underutilized Business Zone ("HUBZone") program, and the Service-Disabled Veteran-Owned ("SDVOB") program which promote minority and disadvantaged small business owners to do business with the federal government.

To ensure that small businesses have access to the procurement market, statutory goals have been established for the federal government to contract with small businesses, SDBs, women-owned small businesses, HUBZone businesses and SDVOBs. The federal government has a 23% mandated small business contracting goal and the SBA negotiates with procuring federal agencies to establish agency goals to ensure that the federal government meets these goals.

The statutory goals for the federal government are as follows:

- 23% of prime contracts for small businesses;
- 5% of prime and subcontracts for SDBs;
- 5% of prime and subcontracts for women-owned small businesses;
- 3% of prime contracts for HUBZone small businesses; and
- 3% of prime and subcontracts for SDVOBs.

America has a long history of using its purchasing power as a means to further the business development and economic development of various individuals and groups who would otherwise be excluded from the huge government contracting market. This furthers social goals but more importantly it increases competition and expands and diversifies the sources of supplies and products for the government. Native Enterprises are starting to use these procurement programs just as the government intended, to use business approaches and models to further self reliance and build strong Native communities. Thereby partially fulfilling the federal government's obligations to Native Americans.

Native 8(a) Program

By creating unique Native 8(a) provisions, Congress recognized the special needs and its obligations to Indian Tribes and Alaska Natives. Similar to the legitimate policy goals that support business development efforts for other 8(a) program participants (as well as other small business set-asides for woman-owned businesses and service-disabled veteran-owned businesses, and small and disadvantaged businesses), the Native 8(a) provisions also embody the unique relationship between Native Americans and the federal government.

In fact, hearings held by the Senate Indian Affairs Committee in 1987 and 1988, found a need to include Indian tribes and Alaska Native-owned firms in government contracting because President Reagan's "Commission on Indian Reservation Economies" had documented that the government's procurement policies were significant obstacles to economic development and the committee found that tribally-owned companies had a difficult time qualifying for 8(a) program certification. The Chairman of the Senate Indian Affairs Committee believed that remedial action was necessary to address the low participation of American Indian and Alaska Native-owned firms in government contracting. During the 1988 hearing, Chairman Inouye stated that "directing the purchasing power of the federal government to accomplish social goals such as assisting disadvantaged members of society is well established" and he noted that unfortunately, "this public policy goal has not been achieved with respect to the participation of businesses owned by Native Americans."

As this committee well knows, the federal government's unique obligations to Native Americans are recognized in the Constitution, federal laws, and by the Supreme Court, and those obligations empower Congress to enact legislation that recognizes the status of First Americans. Indeed, in terms of economic development, this special relationship is embodied in the Indian Commerce Clause of the United States Constitution. In furtherance of this relationship, Congress enacted legislation to encourage the participation of Tribally-owned and Alaska Native corporations to participate in the 8(a) program in a manner that advances the federal government's interest in promoting self-sufficiency and economic development in Indian Country.

The Native 8(a) program was designed to empower Native communities to provide for their people, to sustain and expand their economies, and to combat the historic economic and social ills these communities face. It is also a way for Indian Tribes and ANCs to engage outside communities, outside investors, and other expertise in economic activities that benefit Native communities. We are just now getting a foothold in the federal marketplace after being left out, locked out, and elbowed out for decades. With some modest success, we now represent a small slice of the total procurement dollars ($1.9 billion). However small, it is beginning to have a big impact in Native communities.

The 8(a) program has fostered a culture of ownership and self-sufficiency and a path for diversifying and expanding Native economies. The benefits and services that Native communities receive result directly from the profits that Native Enterprises realize from government contracts. It is a hand up—not a hand out. Native Enterprises provide benefits in the form of dividends to shareholders, scholarships, job training opportunities, and economic stimulus to the local community. A 2005 NACA survey of its ANC members shows that ten regional and two village corporations paid $33 million in dividends attributable to government contracting—these corporations had 86,516 shareholders among them; $9 million was awarded in scholarships; $12 million in other shareholder programs and over 31,000 jobs created nationwide. These figures show that Native American participation in the 8(a) program is enabling them to compete in the American marketplace and to become successful and self-reliant, and to act as engines of growth in their communities.

Like other 8(a) firms, Native Enterprises can only participate in the 8(a) program through small businesses which are subject to stringent program entry eligibility requirements. Native Enterprises have two key unique 8(a) provisions:

1) The competitive thresholds which limit the amount of sole-source contract awards do not apply; and
2) Native Enterprises can participate in the 8(a) program through more than one company.

This was the intent of Congress, and makes sense in light of the economic and social disadvantages with which Native communities must contend and the numbers of Native Americans in need. The disadvantages suffered by Native Americans encompass entire communities and villages, as opposed to individuals who are socially or economically disadvantaged. The ability to operate more than one company allows Native Enterprises to provide for hundreds or thousands of their people.

Similarly, Native Enterprises are not subject to low caps for a reason. Unlike the typical structure of a small business, with one or a few owners, Native Enterprises are responsible for combating historical disadvantage, rural isolation, and the depressed economies that have resulted from a multi-generational dearth of opportunity. The program rules were purposely drafted, and Congressionally-mandated, to reflect the social and economic obligations Native Enterprises have to their communities, the size of these communities, and the immensity of the problems we face. The Native 8(a) program is exactly what Congress intended: an economic development program to help disadvantaged Native American communities, that lifts our people with a hand up—not a hand out.

Native Enterprises provide quality services and cost-effective products to the Federal government. It is no secret that the government contracting marketplace is highly concentrated and dominated by a few very large companies. In 2005, the five largest contractors received 20% of the total contract dollars awarded. By providing additional sources of products and suppliers within the market, Native Enterprises give the government alternative procurement vehicles, provide competition to the big companies, and give the taxpayers' more value for their dollars.

For example, Integrated Concepts and Research Corporation (ICRC) (at the time, a subsidiary of Koniag Development Corporation, an Alaska Native Corporation) partnered with Qualis, a woman-owned small business, located in Alabama to bid on a NASA contract to provide aerospace materials testing. Over the life of the $12.3 million five-year contract, the ICRC/Qualis team earned 100 percent of its performance and cost incentive fees. The ICRC/Qualis team has a reputation for consistently running 10 percent under target incentive budgets and through other initiatives has saved NASA close to $1 million in contract costs. Simply put, with more sources of supply and services for federal agencies, competition is increased and best value is provided.

Issues Raised

In recent years, there has been a tremendous amount of focus on the Native Enterprises that contract with the federal government. This increased scrutiny suggests that there is something wrong with the way Native Enterprises are doing business. I would like to address these issues one by one.

First Issue: The numbers—Where are contracting dollars going? Native Americans represent 4% of the American population. Our enterprises today receive less than 1% of the federal procurement dollars (but some days it seems that we get 100% of criticism). Again, looking at the most recent data available, in 2005 the federal government spent a total of $377.5 billion on all contracts. Native American contract awards of all types comprised only $3.19 billion, less than one percent of (0.8%) of all federal contracting dollars. In addition, in 2005, the Federal government awarded $11 billion in contracts to 8(a) firms. Of that amount, approximately $1.9 billion, or 17.2%, was awarded to Native Enterprises through sole source awards. Other 8(a) firms received 82.8% of the 8(a) awards. Native Enterprises represent approximately 1% of all non-competitive awards government-wide. We get a very, very small share of all federal contracting dollars, and just a fraction of the 8(a) awards.

Second Issue: Native Enterprises somehow are awarded contracts and then subcontract all of the work to subcontractors in violation of the SBA's limitations on subcontracting regulations. This criticism is flat wrong for several reasons. The SBA's regulations require 50% of personnel costs to be borne by any 8(a) firm performing a service contract. This performance of work requirement must be met by all 8(a) firms, including Native Enterprises. 8(a) firms and Native Enterprises can subcontract a portion of work on federal contracts—this practice is not exclusive to Native Enterprises. In fact, most federal contractors, large and small, do just that for good reasons, most likely benefiting local businesses and workers in each one of the states represented by members of this committee.

To improve transparency and compliance with this requirement, NACA has developed a Best Practices Guide for its members, "Guide to Industry Best Practices: Ethics and Compliance Programs and Establishing Best Business Practices." The guide recommends that Native Enterprises develop a mechanism for tracking compliance with this requirement. For example, SKT has created a senior-level management office whose responsibility it is to monitor and track compliance with all the SBA 8(a) regulatory requirements including the performance of work requirement on each contract. Additionally, NACA through the SBA tribal consultation process will make recommendations on how reporting on this requirement can be improved to provide more transparency and accountability. Moreover, federal procuring agencies are responsible for overseeing compliance with this requirement. The GAO in its report noted that procuring agency officials are often not aware of this responsibility. NACA recommends that the SBA revise its partnership agreements so procuring agencies are aware that they are responsible for monitoring 8(a) compliance with this requirement.

Let me be clear: Native Enterprises do not "pass through" work to subcontractors, as a few erroneously allege. That would be self defeating because, it would not provide long-term revenue streams which Native Communities need to provide basic services. In fact, teaming arrangements enable Native Enterprises to realize profits that are then reinvested in their communities. Teaming arrangements also give Native Enterprises the added benefit of learning new core competencies and new

lines of business, giving us more leverage to compete with large businesses, benefiting the taxpayer and Indian Country.

Third Issue: Native Enterprises can form joint ventures with large, non-Native companies, and therefore the implication is that Native Enterprises are somehow not qualified to do the work or that the large companies benefit from the 8(a) program. Again, all 8(a) firms, not just Native Enterprises, can form joint ventures with non-small business owners. All 8(a) firms can venture with large businesses if they are operating under the SBA's Mentor-Protégé program. The use of teams and joint ventures are encouraged by the federal government as a means to stimulate growth, to forge new business relationships, and to develop expertise. The SBA's Mentor-Protégé program is central to business diversification and expansion. The mentor can provide valuable technical/management assistance, financial assistance, and sub-contract opportunities which enhance the capabilities of the Protégé firm.

For example, Sealaska Environmental Services (SES) is a wholly owned 8(a) subsidiary of Sealaska that was started in 2003. In its short history, SES has partnered with Tetra Tech, a leader in the environmental services industry providing environmental remediation, and engineering services. This partnership combines Sealaska's natural resource management experience with the proven systems, controls and highly trained people of Tetra Tech. SES and Tetra Tech formed a Mentor-Protégé agreement and a joint venture and have negotiated agreements with the Navy to provide environmental remediation services at several Navy facilities on the west coast. Through its relationships with Tetra Tech, SES continues to build both its environmental remediation capacity and capability to help transition SES from a start-up 8(a) to a stand-alone company in a highly complex and competitive industry.

Partnering through teaming or joint ventures is also important once a Native 8(a) graduates out of the program and must compete with giants such as Lockheed Martin, Raytheon and Boeing. The giants of the government contracting market have had 60 plus years to create their competitive advantages which include the substantial capital needed bid on major contracts. Responding to major contract solicitations takes expertise and months of manpower costing up to 3 percent of the contract award—a $100 million dollar contract may cost upwards of $3 million dollars to prepare a bid.

How does a government contractor like Chugach Development Corporation (CDC), fresh out of the 8(a) program in 1998, succeed in a market dominated by powerful and capital rich companies? In CDC's case, the management team made the strategic decision to not go it alone. They networked with their competitors convincing government contracting giants that CDC could deliver quality, timely, and cost effective work in facility maintenance and logistics. Teaming with Bechtel and Lockheed Martin, CDC won their first major full and open competitive bid contract, and they have never looked back. CDC has the reputation of being "the little company that could!"

The Mentor-Protégé program also is an important way for Native 8(a)'s to work with and partner with other small businesses. SpecPro, Inc., an ANC 8(a), formed a Mentor-Protégé relationship with TerraHealth, Inc., an 8(a) veteran and minority-owned business and were awarded the Department of Defense Nunn-Perry Award for reducing costs for DoD and for developing technical capabilities and increasing opportunities for another small business. SpecPro and TerraHealth's relationship furthers both of their growth, and continues to develop and mature as a model for new small businesses to follow.

Native Enterprises are treated no differently and operate no differently than other 8(a) firms in respect to Mentor-Protégé relationships. Through the tribal consultation process initiated by the SBA, NACA will make recommendations on how reporting requirements on Mentor-Protégé agreements and joint ventures can be made more transparent to better demonstrate compliance with the regulatory requirements and to demonstrate that mentors are indeed providing technical and/or management assistance that increases the contracting capabilities of Native 8(a)'s.

Fourth Issue: executive compensation. To attract the type of talent needed to successfully run a business, all businesses must pay what the market dictates for experienced executives. The salaries paid to our managers are on par with other businesses because we must recruit those who have the talent and expertise to manage and oversee companies in a complex and competitive procurement market. We are under the gun to produce quality services and provide a good return back to the taxpayer. Unlike other industries, profit margins in government contracting are small and the competition is great, it takes an experienced manager to be successful in this industry. Further, unlike family-owned or closely-held small businesses, Native Enterprises have a fiduciary duty to their communities and shareholders.

Native Enterprises seek out the best talent we can get to help maximize revenues for our owners—Native Americans. These business managers oversee the day-to-day operations of the companies and they are subject to the control of their Tribal Councils or their Native board of directors and shareholders. They are held accountable for the work they do and are expected to produce and improve the bottom line.

Fifth Issue: small business community criticism of the recent successes of Native Enterprises. This criticism is misplaced. It distracts from the many issues all small business contractors have in common. When you get down to it, we are being criticized for finally realizing some of the benefits that Congress intended—diversifying our economies. While the federal contracting market has doubled in size since 2000, many small businesses believe they are locked out of the market. While the size of the market has grown, the federal government statutory goals which ensure small business participation have remained the same. Additionally, the overall small business share has declined due to a number of reasons, such as bundling/consolidating contracts beyond the reach of many small business capabilities and barriers to growth that make it more difficult for small businesses to compete for larger contracts. The federal procurement market is huge, there is plenty of room for Native Enterprises and other small businesses to participate. From a policy standpoint, all small businesses stand to gain by advocating with a unified voice on issues like increasing agency contracting goals and size standards for small businesses, as well as increasing the thresholds for individually owned 8(a) firms.

We are working hard to strengthen the relationships between Native Enterprises and other small business. NACA has formed strategic alliances with other small business trade associations, these alliances serve to facilitate relationships with groups that may not have worked with Native Enterprises in the past. These alliances also broaden contractor access and create productive networks among various small business contractors.

In recent years, Native Enterprises have been able to diversify and expand into new markets. Last summer, the DOD office of Small Business hosted a small business roundtable with NACA and other small business trade associations. This has resulted in several productive working relationships. For example, NACA and WIPP (Women Impacting Public Policy) held a workshop on how to form small business teams and provided opportunity for Native contractors and women-owned businesses to meet and exchange information on their capabilities. This has resulted in productive teaming arrangements among a number of the companies that participated. By teaming and partnering with Native Enterprises, other small business owners can also expand the services they offer and enter into new markets. Since some Native Enterprises have performed numerous federal contracts, they have an impressive past performance record which they can contribute to contracting teams. Native Enterprises welcome partnering with those in other small business communities who have similar goals and common interests.

The non-native communities in which Native Enterprises are working and operating also see the benefits of increased opportunities. We know there are concentrations of Native 8(a)'s working in Alaska, New Mexico, Washington, Oklahoma, Alabama, Florida, Virginia and Maryland; some of these are states with predominate Native American populations other are not. With the expansion of Native Enterprises comes increased employment in the local communities.

The small business community as a whole can benefit from focusing on the areas of government contracting that can be improved for everyone, and Native Enterprises in particular are advocating ways to ameliorate some of the adverse effects of the current procurement market. For example, speaking on behalf of its members, NACA supports initiatives that would increase awards to small businesses and decrease the amount of bundled contracts. Also, NACA supports increases in agency goals for contracting with small businesses and set-asides for small businesses. In addition, to partnering with other small businesses, NACA through an agreement with NCAIED, and through other efforts, is working to develop inter-tribal business opportunities by providing training workshops and networking opportunities among Native-owned enterprises.

Conclusion

In sum, the communities which Native Enterprises serve remain some of the poorest and most under-employed groups in America. There is still tremendous work to be done in effecting positive and sustainable benefits for these communities. The less than 1% of the federal contracting that Native communities now receive is enabling Native 8(a)s to create jobs and opportunities desperately needed by their communities. Through our self-reliance and business ingenuity, Native peoples are starting to provide for the sufficiencies of our communities thanks to the business development opportunities provided by Congress. Native participation in the 8(a)

program has helped Congress further two important goals: economic self-sufficiency and self-determination. Remarkably, this is being done by providing access to the private sector market, building technical expertise through Mentor-Protégé and teaming arrangements, and providing access to a market with relatively low capital costs. The continued economic success and well being of Native communities depends on the combined and sustained efforts of Indian tribes and ANC's, the federal government, and the private sector.

Great Returns and Great Value with Little Federal Investment

To build upon this progress, NACA offers the following points and recommendations:

1. The Native 8(a) program has resulted in just what Congress intended—building stronger Native communities that have been devastated by economic distress. The Native 8(a) program is a rare federal program that works by providing incentives that stimulate economic development in Native communities, diversifying Native economies, and providing revenue for scholarships, training and encourages entrepreneurship in Native communities.

   Recommendation: The House Resource Committee, as the committee with jurisdiction over federal Indian policy issues, should play a proactive role in future Congressional processes involving the Native 8(a) program and help educate others of the importance of the Native 8(a) program and the federal government's unique relationship with Native Americans. This hearing is a great beginning.

2. While the federal contracting market has increased significantly, the small business share of that market has declined significantly due to bundling/consolidation of contracts beyond the capabilities of most small businesses and current barriers to growth that make it difficult for small contractors to compete for larger contracts.

   Recommendation: The House Resource Committee should support and facilitate the efforts of NACA, NCAI, and NCAIED and other disadvantaged groups in taking actions to enhance contracting opportunities for all small business contractors, and our ability to work together. This could involve facilitating meetings and discussions with other committees and with the administration.

I thank the Chairman for the opportunity to speak before the Committee today, and welcome any questions your Committee may have.

NOTE: The "Guide to Industry Best Practices: Ethics and Compliance Programs and Establishing Best Business Practices" and "Policy Statement on Small Business Contracting" submitted for the record have been retained in the Committee's official files.

WORKING TO ENHANCE THE ECONOMIC SELF-SUFFICIENCY OF AMERICA'S INDIGENOUS PEOPLES

September 2007

Native Contracting Facts
Native American Contracting In Perspective

Native American Share of the Federal Contracting Pie:
In 2005, the Federal Government spent a total of $377.5 billion on all contracts. All Native American (ANCs and Tribes) competitive and noncompetitive contract awards comprised less than one percent, (0.8%) of all federal contracting dollars.
Source: Eagle Eye, Inc.

Native American Share of 8(a) Contract Awards:
In 2005, the Federal government awarded $11 billion in contracts to 8(a) firms. Of that, approximately $1.9 billion, or 17.2%, was awarded to Native American enterprises. Other 8(a) firms received 82.8% of the 8(a) awards during this time period.
Source: Eagle Eye, Inc.

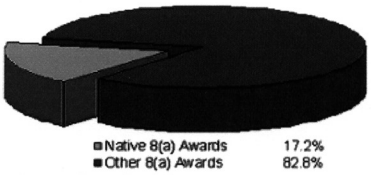
A Small Number of Large Contractors Receive A Significant Portion of All Contract Dollars:
The top five largest contractors received more than 20% of all contract dollars in 2005. These companies were: Lockheed Martin, Boeing, Northrop Grumman, Raytheon, and General Dynamics. Native American enterprises are just now beginning to break into this highly concentrated marketplace.
Source: Waxman Report, Dollars Not Sense.

Competition in Perspective:
In 2005, 38% ($145 billion) of all Federal contracts were awarded non-competitively. This represents an increase from 2000, when 33% ($67.5 billion) of all Federal contracts were awarded without full and open competition.
Source: Waxman Report, Dollars Not Sense.

Native Share of Federal Contracting Dollars

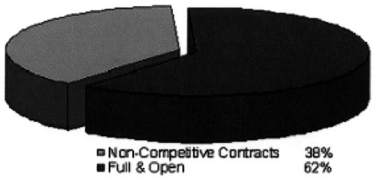
Source: Eagle Eye, Inc.

Native 8(a) Awards



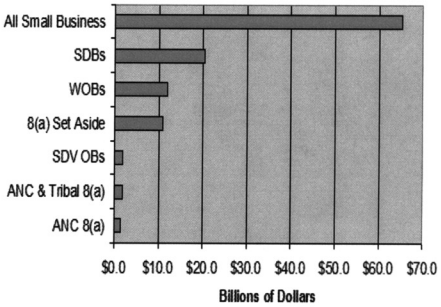
Source: Eagle Eye, Inc.

Competition in Perspective



Source: Eagle Eye, Inc.

Procurement Spending by Socioeconomic
Procurement Spending By Socioeconomic Category:
Category:
Alaska Native Corporations and Tribal enterprises accounted for only 2.9% ($1.9 billion) of all Small Business contract awards in 2005, which totaled over $65 billion. The Native American enterprise share was the smallest amount among all socioeconomic categories.
Source: Eagle Eye, Inc.



Source: Eagle Eye, Inc.

What Is At Stake:
There is growing concern that Native Americans' participation in the 8(a) program, and indeed the 8(a) program in general, is in jeopardy. Federal contracting, especially by the Department of Defense, is highly concentrated in a handful of large companies dominating the market. The 8(a) program has helped small companies enter the federal marketplace, grow and gradually compete with success. For many years, Native American enterprises lagged far behind others in struggling to break into this market and only recently have they become more successful participants in the 8(a) program. Still, companies owned by Alaska Native Corporations and Tribes receive less than one percent (1%) of all federal contract awards. By contrast, the five largest federal contractors received twenty percent (20%) of the total contract dollars awarded in 2005.

The 8(a) Program has become an important tool in building a culture of ownership and entrepreneurship in Indian country and in diversifying Native economies. While Native Americans' participation in this program is enabling them to compete in the American marketplace and to become self-sufficient, they remain one of the poorest and most under-employed groups in America. The 8(a) program is changing that and enabling Native Americans – through their hard work and business ingenuity – to improve their lives and to create jobs for all Americans. By jeopardizing Native Americans' participation in this program, we are jeopardizing this progress.

For more information:
Karen J. Atkinson, Executive Director
Native American Contractors Association
202.349.9845.

POLICY STATEMENT ON SMALL BUSINESS CONTRACTING
March 2007

To ensure that small businesses can access its fair share of the over $370 billion federal procurement market, the Federal Government set a goal of awarding 23% of all federal contract dollars to small businesses and 5% to small disadvantaged businesses. Prominent among the several federal programs designed to stimulate small business contracting is the Small Business Administration (SBA) Section 8(a) Business Development Program to enhance the competitive viability of firms owned by socially and economically disadvantaged individuals through the provision of contractual, financial and technical assistance. The purpose of these federal goals and programs has always been to ensure the maximum practicable utilization of these underrepresented firms, and to expand the base of suppliers to the federal government.

Congress originally based eligibility for the 8(a) program, in part, on whether the applicant is an individual of certain racial or ethnic heritage, or is a member of a group indigenous to this country. In later reforms of the 8(a) program. Congress extended eligibility to

Indian Tribes, Alaska Native Corporations (ANCs) and Native Hawaiian Organizations (NHOs) representing those indigenous peoples who have a time-honored special trust relationship with the federal government that obligates the government to implement policies to facilitate self-determination and self-sufficiency within Native communities.

For many individual entrepreneurs, the 8(a) program has helped them grow their business successfully and benefit personally from that growth. For Indian Country, the 8(a) provisions applicable to Tribes, ANCs and NHOs have enabled the Native enterprises they own to generate revenues and create jobs that benefit their entire Native communities. Despite the success of many 8(a) companies, many more still struggle to break into the highly concentrated federal procurement market that is dominated by much larger companies, including the five largest contractors that alone hold 20% of all federal contract award dollars.

To expand the contracting opportunities for all small business contractors, our organizations pledge to work together to broaden the base of 8(a) and other small business suppliers and service providers available to the federal government by: 1) developing innovative incentives for agencies to award more and larger contracts to 8(a) and other small business contractors; and 2) advocating for the use these incentives and other procedures that will ensure that the SBA and other federal contracting agencies ramp up their award of contracts so as to meet and exceed their small and minority business contracting goals every year.

Policy Positions

For the foregoing reasons, our organizations pledge our support for the initiatives outlined in the attached document..

A. Expand Small Business Contracting Opportunities.

The SBA's regulations and policies have not kept pace with changes in the federal contracting market, such as increases in the average size of contracts often exceeding the capacity of small firms, the prevalence of teaming arrangements and joint ventures, the bundling and consolidation of contracts, and the consolidation of government contractors to perform larger contracts. These changes have made it harder for small businesses, particularly 8(a) firms, to compete for government contracts. Consequently, there have been steep declines in the total value of contracts awarded to 8(a) companies in particular and to all small businesses in general. The federal government must take immediate actions to reverse these trends, including retaining some incentives and enhancing other incentives for contracting officers to award to 8(a) and other small businesses, such as:

1. Fulfill Congressional intent to provide important incentives for agencies to contract with underrepresented Native community-based enterprises without diminishing or eliminating the 8(a) provisions applicable to these enterprises owned by Tribes, ANCs or NHOs that help build stronger, more self-sufficient Native economies.

2. Enhance the ability of individuals to qualify for certification as 8(a) program participants and to pursue larger contracts on a competitive or non-competitive basis.
3. Support agency efforts to track and monitor federal agencies' achievement of their 23% small business and 5% minority business contracting goals, and advocate for approval of increases in these two goals, and/or a new goal for 8(a) contract awards.
4. Identify new ways to participate in the concentrated federal procurement market, including innovative teaming arrangements for Native enterprises and other small businesses to pursue larger contracts in teams, such bundled contracts set aside for competition among teams of small businesses.
5. Encourage small businesses with larger contracts to implement subcontracting plans to develop stronger business alliances among all types of small business contractors. Currently subcontracting plan requirements apply only to large prime contractors and describe how they will subcontract a portion of the prime contract work to 8(a), small disadvantaged, service disabled veteran-owned, HubZone, women-owned and other small businesses.

B. Administrative Oversight and Monitoring.

Scrutiny of government contractors, whether excessive or not, will continue. Even permissible relationships, such as a mentor-protégé agreement with a large business, can be cast as improper, and suspicion thrives on the scarcity of accurate data. Increased SBA and other agencies' oversight of existing requirements would verify that Native enterprises and other 8(a) companies are good stewards of taxpayer funds. The following steps can foster better administrative oversight:

1. Improve SBA's implementation of the 8(a) provisions applicable to Tribes, ANCs and NHOs by: a) enhancing existing policies and procedures to improve outreach and assistance to, and oversight of, Native enterprises; b) redesigning and improving the Tribal 8(a) certification process to reflect the unique nature of Tribal enterprises; and c) authorizing an Assistant Administrator for Native American Affairs to access the various programs of the SBA to improve the support provided to Native enterprises through contractual, financial and technical assistance.
2. Afford the SBA with sufficient resources to rebuild and train its staff to improve implementation of the 8(a) and other programs to assist all small business contractors in accessing the tools necessary to compete successfully and receive a fair share of federal contracting opportunities.
3. Design a method to identify and track contract awards to Native enterprises owned by Tribes in federal procurement data systems.
4. Establish a small business 8(a) training program to provide annual training sessions for both 8(a) contractors and contracting officers.

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NCAI HEADQUARTERS
1301 Connecticut Avenue, NW
Suite 200
Washington, DC 20036
202.466.7767
202.466.7797 fax
www.ncai.org

The National Congress of American Indians
Resolution #GBW-05-002

TITLE: Support of the Rights of Indian and Alaska Native Tribes, Alaska Native Corporations and Native Hawaiian Organizations to Participate in the SBA 8(a) Program

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, Indian reservations and Alaska Native Villages suffer from some of the worst poverty in this country, with unemployment levels up to 75% and, because of the lack of resources, there are few individual entrepreneurship on Indian reservations and Alaskan Native tribes; and

WHEREAS, the Federal government buys over $200 billion in goods and services annually, and has a statutory goal of awarding at least 23 percent of its purchases to small and disadvantaged businesses; and

WHEREAS, one of the most successful Federal initiatives has been including Native American corporations in the Small Business Administration's 8(a) Program; and

WHEREAS, Indian and Alaska Native Tribes, Alaska Native Corporations, and Native Hawaiian Organizations have only recently become successful participants in the 8(a) Program and Native American communities are just beginning to experience the benefits of the program; and

WHEREAS, there have been attempts made to modify these rights without the benefit of Congressional hearings and information on Native contracting rights, Native contracts and the economic benefits that federal contracting dollars have provided for Native communities; and

WHEREAS, that NCAI recognizes that the participation of Indian and Alaska Native tribes, Alaska Native Corporations, and Native Hawaiian Organizations in the SBA 8(a) Program has been an important tool in building a strong Native economy; and

WHEREAS, the NCAI recognizes that the participation of Indian and Alaska Native Tribes, Alaska Native Corporations, and Native Hawaiian Organizations in the National economy and in government programs designed to meet the needs of First Americans is critical to all parties and is based on the fact that indigenous Native Americans have, historically, been unfairly and dramatically underrepresented among the various ethnic classes of 8(a) contractors contracting with the federal government.

NOW THEREFORE BE IT RESOLVED, that the NCAI does hereby respectfully request the United States Congress hold hearings and examine the economic and social needs of First Americans and the success of Federal programs intended to address those needs; and

BE IT FURTHER RESOLVED, that NCAI strongly oppose any congressional amendment, regulatory changes or other means to diminish, alter, denounce or abolish the current rights established in the federal 8(a) procurement system allowing Indian and Alaska Native Tribes, Alaska Native Corporations, and Native Hawaiian Organizations to create economic development for the benefit their respective reservations, communities and villages; and

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted at the 2005 Mid-Year Session of the National Congress of American Indians, held at the Radisson Hotel & Conference Center Green Bay, Green Bay, Wisconsin held from June 12–15, 2005 with a quorum present.

President

ATTEST:

Recording Secretary

Adopted by the General Assembly during the 2005 Mid-Year Session of the National Congress of American Indians, held at the Radisson Hotel & Conference Center Green Bay, in Green Bay, Wisconsin.

The CHAIRMAN. Thank you. In order to give our final witness appropriate time, the Chair is going to recess for approximately a half-hour so we can answer roll call votes on the Floor of the House at this time, and we shall return.

[Recess.]

The CHAIRMAN. The Committee on Natural Resources will resume its sitting, and for purposes of introducing the next panelist,

the Chair will yield to the Ranking Member from Alaska, Mr. Young.

Mr. YOUNG. Thank you, Mr. Chairman, and again it is my privilege and honor to introduce our next witness, Julie Kitka, who has been President of the Alaska Federation of Natives for how many years, Julie?

Ms. KITKA. Seventeen years.

Mr. YOUNG. Seventeen years, and watch it grow from a fledgling operation to a very viable unit within the State of Alaska, conveying the thoughts and beliefs of the Alaska Natives, and I believe one of the greatest supporters of the 8[a] contracting program that we have.

So with that, I would like to yield this time to Ms. Kitka for her testimony.

STATEMENT OF JULIE KITKA, PRESIDENT, ALASKA FEDERATION OF NATIVES, ANCHORAGE, ALASKA

Ms. KITKA. Thank you, Mr. Chairman, and thank you Vice Chairman Young.

First of all, I wanted to thank you personally as well as members of the Committee for the important role your committee has had over the years for the Native people of Alaska and other Native Americans, and I want you to understand that the work that you do and that the decisions you make have real impacts on the ground, and we are very grateful for you and your staff's dedicated work over the years. Because of your work, I can say our people have greater opportunities, our elders are living longer, healthier lives, our children are receiving better educations, and our people are living in safer homes. The improvements are real and immeasurable, and we are very grateful, and I just have to say that right from the start because it is important that you understand that.

Again, I am the President of the Alaska Federation of Natives, which is the largest statewide Native organization in Alaska, representing more than 130,000 Alaska Natives.

I wanted to also mention we recently over the last year and a half had the chance to meet and have serious conversations with the renowned Peruvian economist by the name of Hernando De Soto, who wrote the international best seller on the mystery of capital, and I wanted to share a comment with you that he made in regard to the Native people in Alaska to give you an idea of what is going on in our state.

Mr. De Soto said that what he sees going on in Alaska with Alaska Natives is "living proof that life is not a roll of the dice, harsh and brutal; that government can work with people to set up systems where people can make a difference and improve their lives."

I think that is an absolutely powerful statement that life is not a roll of the dice, harsh and brutal, and so it is not just by chance that things are happening, and I just wanted to convey to you the partnership that we have had over the years with this committee and with the committees that have taken jurisdiction over Native issues on that have really made a difference, and our Native people in Alaska are living proof of what can be done if we have the appropriate tools and structures, and we are very proud of the accomplishments that we have had since our land claim settlement, and

growing our Native corporations, growing our Native entities, and making a difference in the lives of our people and other citizens in our state.

One of the points I made in our testimony is the great diversity among our people in the state. We have Yupik, Cupik, Inupiat Eskimos, Athabascan, Tlingit, Haida and Tsimshian Indian peoples, so we are not all the same in the state. There is great diversity across generations, across geographies, and across gender among our people, and because of these differences and diversities we feel very strongly that there is no one solution that fits all. There is no one economic tool that meets the needs of all the people, and we really encourage you to take a look at economic development and initiatives as a whole cluster of economic health and educational initiatives as opposed to just one initiative.

Basically, the current situation, we believe, is, and as has been told out by the Secretary of Treasury and other very distinguished branches of the government, is that the U.S. economy is strong and growing stronger, and it is expanding, and what we feel that, and other people have said that as the United States economy grows and expands, that there is still pockets in our country which are not sharing in the tremendous economic growth that is going on, and Native American communities are among those pockets that still aren't getting the full measure of the strong U.S. economy and the growth.

We feel strongly that what needs to happen in order for us to share more fully in the economy is that we need additional targeted assistance to, one, keep up with changing technology, there is a lot of rapid change in technology, and to ensure that the economic pie continues to expand, and that the committees don't look at ways to constrict and limit participation in economic opportunities, but how can we make the pie bigger and grow participation in many ways.

Like I said, that said the remainder of my testimony is going to cover two things. One is the 8[a] government contracting in which we feel unequivocally has been a success, and it is something that our regional and village corporations and Tribes in Alaska have participated and they have worked very hard providing value and quality work for the government. This is not a hand out. This is delivering work for the government that the government wants and needs and doing it at a value.

In our testimony, we have given specific examples of our participation in the 8[a] program and how the work that has been provided by our people that are contracting meets and exceeds government standards in so many ways. There is just stacks and stacks of commendations that our companies have gotten from the Federal agencies on that, commending our people for the quality work that has been done.

I really want to encourage this committee to stay engaged in the 8[a] contracting issue as it surfaces in the various committees, and please assert your jurisdiction to the fullest extent to protect our interests as Native Americans. It is just vitally important that people understand the trust responsibility between the government and Native Americans that understand our history and background

to be able to judge the issues all around the 8[a] program, and it is very important that this committee stays engaged.

I want to also bring up quickly another economic initiative, H.R. 3351, which is sponsored by you, Vice Chairman Young, a demonstration project of a domestic version of Millennium Challenge Account. That I will just bring briefly because, as I mentioned, not all solutions fit all groups of people in all circumstances, and we have 87 villages in our state that want to be part of this demonstration project, a pilot if you will, with representatives in Hawaii and reservation states, and we are very excited about the potential of what this demonstration project can do, and it is basically a domestic version of the Millennium Challenge Corporation, which the United States set up, and Members of Congress supported, creating a Federally chartered corporation to provide the assistance.

We are not asking for a Federally chartered corporation. We are just asking for the models of results-based management and accountability, and that whole unique compacting model to be tested within our communities to see if that model which is just being used internationally can have some measures of success with some of the real intractable areas of poverty in our communities.

I am very proud to say that has been introduced, and we anxiously await consideration by this committee, and hopefully passage of that and that demonstration pilot to go forward.

In our testimony, we have also included quite a number of other recommendations in the economic arena. We feel very strongly that there has been a lot of rapid change happening in the economy and the economies that our businesses participate in, and we feel very strongly that the U.S. Congress and the government needs to protect U.S. businesses, including Native businesses, so that we can be competitive in the global economy, and as this rapid change in globalization occurs we really think there is new tools that need to be added to the toolbox for companies to depend on, and that it is vitally important that American companies are able to be competitive and that Native companies and our business enterprise can be among the best in the country and protect jobs and opportunities for our people.

I include nine recommendations in there, and I won't cover them because of the time restraints on that, but I urge your consideration of them, and want to firmly put our organization on record in support of the wonderful work that is being done by Native contractors under the 8[a] program and urge your continued support of that program.

Thank you.

[The prepared statement of Ms. Kitka follows:]

Statement of Julie E. Kitka, President,
Alaska Federation of Natives

Chairman Rahall, Ranking member Young and distinguished members of the committee, thank you for the opportunity to appear before you today on behalf of the Alaska Federation of Natives (AFN) to talk about the importance of diversifying Native economies, the Small Business Administration's 8(a) program to the Native people of Alaska and other important considerations.

My name is Julie Kitka. I am testifying today in my capacity as President of the Alaska Federation of Natives (AFN), a position I have held for seventeen years.

First, on behalf of the Native people of Alaska, thank you for your many years of service in the Congress, in the House of Representatives, and on this Committee. We are grateful for you and your dedicated staff's hard work over the years. On the ground, at home, your work has made a difference. Our people have greater opportunities. Our Elders live longer, healthier lives. Our children receive better education. Our people live in safer homes. The improvements in our lives are real and measurable. We are grateful.

By way of background, AFN is the largest statewide Native organization in Alaska representing more than 130,000 Alaska Natives. We are a young, growing population—projected to double in size every 23 years and so our need for a solid economic base is absolutely essential.

The Alaska Native population, although united in AFN, are a very diverse group. We have Yupik, Cupik, and Inupiat Eskimo peoples; Athabascan, Tlingit, Haida and Tsimshian Indian peoples; and Aleuts. Our Native cultures are land-based, and our occupation and use of our land predates Plymouth Rock and the pyramids. And within each cultural group, there is diversity—across generations, across geography, and across gender. Because of this great diversity, there is no "one solution fits all". We need a cluster of economic, health and educational initiatives which empowers our Native people to be able to maintain our unique land-based cultures and participate fully in the larger society.

Background:

AFN was organized in 1966 to facilitate bringing the various regional and village associations together, to advocate with one voice for a fair settlement of our aboriginal land claims.

With the discovery of oil in Prudhoe Bay-and the need for clear title in order to build a pipeline to bring that world-class discovery on line in order to provide for the energy needs of our country—a sense of urgency created an historic opportunity for the settlement of our land claims. In December 1971, after years of effort by Members of the U.S. Congress and Alaska's Native leadership, the Alaska Native Claims Settlement Act, (ANCSA), P.L. 92-203 was signed into law by President Richard Nixon. In extinguishing aboriginal claims, Alaska Natives were compensated with fee simple title to 44 million acres of land and $962.5 million for lands lost to state, federal and private interests. The Act created 13 regional for-profit corporations and more than 200 village corporations to receive and oversee the land and monetary entitlements.

Native Corporations—Value-based Entities

We have now had thirty-six years working in corporate structures, modifying them over time with your help, to better meet the aspirations of our people. Our corporations continue to be value-driven entities—let me share one small example: NANA Regional Corporation, representing the Inupiat people in Northwest Alaska has as its corporate values the following statements:

Honesty and integrity will govern all activities

All individuals treated with respect

Commitments made will be fulfilled.

This is what the NANA leaders say and believe. This is what they instill in all their employees and strive to be. Other Native corporations have similar statements of values, and they are not just on paper. We are deeply influenced by our cultural values as we go about the hard work of building sustainable economies. It makes for high standards, but in respect for our Elders, we can do nothing less than our very best.

Current Situation: The U.S. Economy is Strong and Expanding, but pockets in the U.S. are still excluded from the economic growth

As Americans, we are fortunate in the last few years to be living within a strong U.S. economy, which continues to expand. But we know this strong U.S. economy is not shared throughout the country and there are pockets of communities still struggling. We in Alaska, live in a homeland full of potential. We need your continued attention and support to ensure that all our Native people have the opportunity to fulfill the promises of both our land settlement and as citizens of the United States, living in the strongest, most powerful country in the world.

The rapid pace of change with technology and globalization requires the United States to look closely at the regional economies in our country. The Congress must provide targeted assistance, as necessary, so we may have access to, and keep up with changing technology, and ensure that the "economic pie" continues to expand, rather than constrict. We need a level playing field and a hand up, to allow Native

entities to participate fully and keep the United States competitive in the world economy.

The remainder of my testimony will cover the following areas:

1. 8a Government Contracting and the Special Trust Relationship
2. Alaska Native Participation in the 8a Program—Part of the Solution
3. Other Economic Initiatives—Applying Fifty Years of U.S. Development Experience—A New Demonstration Project (H.R.3351)
4. Recommendations and conclusion.

8(a) Government Contracting and the Special Trust Relationship

Over the years since ANCSA was passed, Congress has enacted many laws to foster self-sufficiency and economic development in Native communities. Among the most successful of these laws are the special provisions implementing Section 8(a) of the Small Business Act. The contracting status offered by the 8(a) program is based on the trust and statutory relationship between Native Americans and the federal government. As you are well aware, there is a special legal and political relationship between the United States and Indian and Alaska Native Tribes, and that special legal and political relationship is grounded in treaties, the United States Constitution, federal statutes, court decisions and a history of negotiations. We also note that this special legal and political relationship between the United States and Native American tribes includes Alaska Natives. Although the legal status of Alaska Native corporations is different than that of Tribes, it has long been recognized that a special legal and political relationship exists between the United States and Alaska Natives.

The federal government has an obligation to foster self-sufficiency and economic development in Native communities. Congress amended ANCSA to help Alaska Natives overcome barriers to economic development in rural Alaska by allowing them to be eligible to participate in the 8(a) program. We consider this an integral part of the original ANCSA economic settlement.

The ANCSA regional and village corporations and tribes in Alaska that have participated in the 8(a) SBA program have achieved success by providing real value and quality work for the government at a fair price. By paying attention to detail, and by being careful stewards of the responsibility entrusted to us by the government, we have delivered a needed service to the government while at the same time providing job opportunities and economic upward mobility opportunities for our Native people.

Since our land base and resources are held by our Native corporations, and are not trust lands held by tribes with reservation status, the financial health of our Native corporations is extremely important to our continued existence as distinct, land-based cultures and peoples living in the United States. Contracting opportunities have allowed us to contribute to our country, gain experience, continue to build capacity, and reinvest profits back into our corporations and people for the future.

As First Americans who have used and occupied our homelands in Alaska for over 10,000 years, and who continue to live in the farthest Northern corner of the United States, we are here to stay. We have a land base, are building our capacity in the use of corporations, and are modifying the corporate structure with the help of the Congress to better meet the needs of our people. Every Congress since 1971 has had a package of technical amendments to fine-tune various aspects of the original settlement.

As I said, we have 36 plus years enmeshed in capitalism as a result of our 1971 land claims settlement in which you—the Congress—chose the corporate form of governance for our people. We have had a steep learning curve.

Participation in the 8(a) program has enabled our Native-owned businesses to develop the experience, skill and expertise necessary to succeed in the competitive business market. The 8(a) program has helped Alaska Native entities overcome significant economic barriers, create and expand competitive businesses in the private and federal markets, create new business opportunities in remote rural areas of our state and return profits to our communities.

Alaska Native Participation in the 8(a) Program—Part of the Solution

One of the reasons we are here today, with a united voice, is to tell you that we need this program for our people. It is an exceedingly rare example of federal Indian policy that successfully promotes economic development and self-sustainability without large direct federal appropriations.

There have been many examples stated earlier in this hearing from Native participation in the SBA 8a program. Others at this hearing will place into the record statistics and concrete examples. I would like to highlight several areas: capacity building, improving productivity, learning from mistakes and shared best practices.

In my view, participation in the 8a program builds capacity in our people to contribute to U.S. competitiveness in the global economy. This is not a hand-out. We are helping the government by providing quality services which the government wants and needs. It is not all about us and what we want. It is about what the government wants and how we can help.

Participation in the SBA 8a program forces us to be as productive with our resources and manpower as possible. We make improvements continually and this makes for tighter operations and less waste. This makes the government more productive and it builds work practices which are superior and strives to be nothing short of excellence.

Participation in the SBA 8a program and government contracting in general will never be free of errors or mistakes. When we identify areas of improvement, or errors we have systems for self-correcting. This is an important capacity and bodes well for the future. You can look at stacks and stacks of letters of commendation that Native contractors have received for improving services on specific jobs for the government. We are very proud of this.

Participation in the SBA 8a program allows us to learn. We have opportunities to identify and share best practices—basically the unlimited opportunity to marry best practices learned to other endeavors within our Native communities. Incentives must be put in place to drive this experience to other sectors within our communities. For example: our experiences in logistics in contracting should carry over to our housing and health systems; our experience in growing Native managers and professionals—carry over to governance and not-for-profit sectors; and accountability—applies to all we do. For example, one of the best things I have felt personally about the SBA 8a experience, especially with Department of Defense contracts, is the need for Native leadership and managers to go through the government security process and obtain top security clearances. Nothing tells a Native leader or manager more about the importance of the contracting work than to know your federal government depends on you. You rise to the challenge.

Lastly, the program is the cornerstone of our future and we need to strengthen it for the benefit of all Alaska Natives and American Indians. As less and less funding is available for Indian concerns including health and social benefits, Congress should look more closely at programs like this one that benefit both Alaska Natives and American Indians by helping them attain economic independence.

Other Economic Initiatives: Applying 50 Years of U.S. Development Experience, A Demonstration Project (H.R. 3351)

Earlier in my testimony, I spoke of the diversity within the Native people of Alaska. I also mentioned that no one solution fits all. An exciting new initiative, outlined in H.R. 3351 speaks to testing out another model of building Native economies. H.R. 3351, the "Native American Challenge Demonstration Project Act" has been introduced by Congressman Young and is pending in this Congress. The Alaska Federation of Natives is very supportive of this bill, which we believe represents a welcome paradigm shift in the way the federal government promotes economic development in Native America. It also represents the fruition of several years of intense discussion within parts of the Alaska Native community on how we can meet the challenge of reducing poverty and promoting sustainable economic growth in our rural villages.

Briefly, the underlying concept of the bill is to apply the lessons learned from decades of American experience in providing foreign aid in the developing world, and applying those lessons domestically in remote parts of Native America. The bill builds heavily on the approach used by the Millennium Challenge Corporation, in that it uses a compacting model to channel a significant amount of development funds for implementing locally designed economic development strategies. As introduced, the bill would authorize $100 million over five years, for disbursement in five pilot projects nationally, one in Alaska, one in Hawaii, and three in the Lower 48 States.

For the Alaska component, AFN has worked closely with two Native regional organizations in southwest Alaska, the Association of Village Council Presidents and the Bristol Bay Native Association. Together these adjacent Native regions span 96,000 square miles, and contain 87 Native villages and one-quarter of the Native population of Alaska. These regions have a rich cultural heritage, and truly incredible natural resources, yet paradoxically have among the highest poverty and unemployment rates in the state, and in the country.

We believe that these regions are ripe for this demonstration project. Both regional organizations are experienced with operating federal programs under Indian Self-Determination Act compacts, have a history of collaboration, and have done

much of the planning legwork for undertaking economic development using this model.

The experience of the AFN, BBNA and AVCP and others, is that many federal programs that should foster economic development are splintered, suffer from lack of coordination between federal agencies, are often poorly timed, and are complex and poorly understood by their intended beneficiaries. They thus remain under-utilized, as was borne out by the 2001 General Accounting Office report, GAO-12-193, which reviewed the effectiveness of some 100 federal programs that serve Native Americans.

The Alaska Federation of Natives urges Congress to take self-determination to the next level, and to foster—and adequately fund—locally created strategies for reducing poverty and fostering economic growth. H.R. 3351 will do this.

Recommendations and Conclusion:

The following recommendations are offered in the spirit of positive dialogue on the role of the federal government to constantly seek to expand the "economic pie," and to share the prosperity of our growing economy to the pockets of people within the United States that are often left out, and left behind.

1. We ask the Committee to closely follow the SBA Administration's 8a consultation process and support administrative recommendations to strengthen the program. There is no need to enact legislation now. Let's let the administrative process proceed. AFN, together with the National Congress of American Indians and others are assisting in the consultation process. In fact, the first Alaska meeting is on October 24th in Fairbanks, prior to our Annual AFN Convention. AFN would be pleased to provide the Committee a detailed report and our recommendations following all the consultation meetings.
2. Congress should support and enact this year, H.R. 3351, a demonstration project applying fifty years of U.S. development experience to Native American communities. Give our project a chance for success.
3. Recognizing that U.S. businesses, including Alaska Native corporations, are not just competing with other states for jobs, but are also competing with China, India, Korea and other countries for the capital to build businesses, and recognizing that the jobs go where the businesses go, Congress should make high-speed telecommunications a national priority to help drive up our country's productivity and potential for economic growth. We need fast, accurate communication networks to stay competitive in the global economy. Given the geographic breadth of Alaska, and its strategic location in the growing East-West sphere, we need the most advanced telecommunications services in order to continue to build our capacity and to compete for jobs and capital.
4. Congress should enact legislation to change the investment climate in rural Alaska and within reservation economies across the country. The Congress should support economic development by creating investment guarantees by expanding current U.S. economic policy to offer domestically the same incentives that are offered to investors in China, India and Brazil.
5. Congress should authorize a feasibility study of a demonstration project in Alaska to be the first outsource free trade zone in the United States. Similar feasibility studies should be authorized for other Native American communities, if there is interest. In order for the U.S. to compete worldwide for jobs and capital, we must offer business advantages that can compete with other major out-source suppliers in China, India, and now Dubai in the United Arab Emirates. Recent reports indicate that Dubai is looking at a targeted share of 5 percent of the global outsourcing industry in five years. Dubai has set up a trade zone that offers advantages such as streamlined bureaucratic processes, zero corporate income tax, and zero personal and sales taxes. The country is also funneling a large amount of funds into construction and diversification plans. A feasibility study of a demonstration project in Alaska, and within other Native American communities, would examine the pros and cons of such an approach in the United States, and tell us whether or not it makes sense. If Congress decided to authorize such a feasibility study, the AFN would like to be a part of it.
6. Congress can enact legislation to create "knowledge economy ecosystems" designed to support the business and government needs of information and communications technology and include other sectors. Congress is aware that knowledge is the most valuable commodity in the economy of the post-industrial world. Congress can ensure that Alaska Natives are able to participate in the global economy, even among business giants that have tremendous wealth and the ability to innovate beyond what we can now imagine. Congress should note that Dubai is setting up what is called the Dubai Knowledge Vil-

lage—described as a vibrant, connected learning community that will develop the region's talent pool and accelerate its move into the knowledge economy. Congress must not allow U.S. businesses to fall behind or be hobbled in their drives to be competitive entities in the global economy.

7. Congress can support multiple demonstration projects on workforce development for the knowledge economy, including one in Alaska. A multi-department initiative including the U.S. Departments of Labor, Education and Commerce is needed immediately.
8. Congress should authorize and fund a knowledge-management/financial entity to capture best practices in government contracting. This entity would foster innovation in developing the capacity of Alaska Native peoples and their organizations. It would identify strategic drivers, forecast various economic scenarios and trends, and review developing models for promising practices in the delivery of services for both the government and private sector. Most importantly, it would help facilitate expanding mentorship opportunities and breathe fresh air into technical assistance efforts. A focus on improved productivity and best practices would equal savings to the government and improved services. Again, a similar entity to focus on reservation specific contexts should be considered if there is interest.
9. Congress should establish two different financial funds, a Native American Economies Diagnostic Studies Fund and a Native American Incubation Center Fund. The first fund—the Native American Economies Diagnostic Studies Fund—would be designed to provide comprehensive economic analyses of Native economies and, in turn, offer recommendations to remove or ameliorate inhibitors to greater investment and job creation. AFN has recently created an Economic Diagnostic Fund, which is a public-private partnership to begin this needed effort. The support of this Committee, and action by the Congress to ramp up this effort would be very helpful. The second development fund—the Native American Incubation Center Fund—would be designed to encourage the design and implementation of pro-growth economic policies to help stimulate Native economies. AFN strongly supports the underlying rationale behind the establishment of funds designated for these purposes and believes they would assist economic development throughout Alaska, and within other Native American communities, if they were enacted into law.

In closing, I would like to commend the committee for their commitment to the issue of economic development and for looking at strategies for building healthy Native economies and stronger Native communities. I ask you on behalf of the Alaska Native people to consider the enormous benefits the 8(a) program has provided to Alaska Natives and the role it plays in fulfilling the federal government's obligation to foster self-sufficiency and economic development for our people. The continuation of the program is essential in helping Native people gain control over our future, over our lives, and over our destinies. It is also equally important to support a cluster of new economic initiatives which fosters innovation, economic growth and shared prosperity.

Thank you for the invitation to testify, and I welcome any questions you might have.

Attachments:

1. Matrix of Alaska Native Organizations and State and Local Governments
2. Matrix on Native Peoples and Languages of Alaska
3. Several maps of Alaska for comparison purposes

Native Peoples and Languages of Alaska

The aboriginal affiliation of Alaska Natives is derived from ancestral linguistic groups. The two major Alaska Native language families are the Eska-Aleutian and Na-Dene. Eska-Aleutian languages are further divided into Aleut and Eskimo—the two major languages in Eskimo are Yupik and Inupiaq. The Na-Dene family language includes the Athabaskan languages, Eyak and Tlingit. Other language families in Alaska are Tsimshian and Haida.

Alaska Native Language Groups

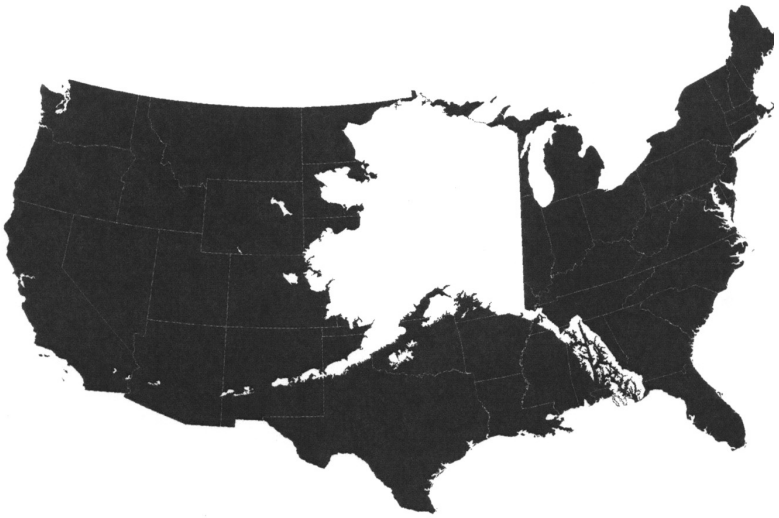
Language Family	Language Names
Eskimo-Aleut	
Aleut	Aleut
Eskimo	Alutiiq (Sugpiak) Central Yupik Siberian Yupik Inupiaq
Tsimshian	Tsimshian
Haida	Haida
Athabaskan-Eyak-Tlingit	
Tlingit	Tlingit
Eyak	Eyak
Athabaskan	Ahtna Tanaina Ingalik Holikachuk Koyukon Upper Kuskokwim Tanana Tanacross Upper Tanana Han Kutchin

Geographic Divisions: The Inupiat live in North Alaska, along the Beaufort and Chukchi Sea coasts (and inland), along the Kotzebue Sound, and down to Unalakleet in the Norton Sound. The Siberian Yupik (Eskimos) live on St. Lawrence Island, while the Central Yupik can be found along the coast (and inland) of Norton Sound from Unalakleet to Egegik in Bristol Bay. The Alutiiq (Eskimos) are found primarily on the Alaska Peninsula, Kodiak Island, and along the coast into Prince William Sound up to Eyak. The Aleuts live primarily on the Aleutian Islands. Athabaskans (Tanaina, Ahtna, Ingalik, Upper Kuskokwim, Holikachuk, Koyukon, Tanacross, Upper Tanana, Han, and Gwich'in) are found in Interior Alaska. The Eyak, Tlingit, Haida and Tsimshian live primarily in southeast Alaska.

Alaska Native Organizations and State and Local Governments

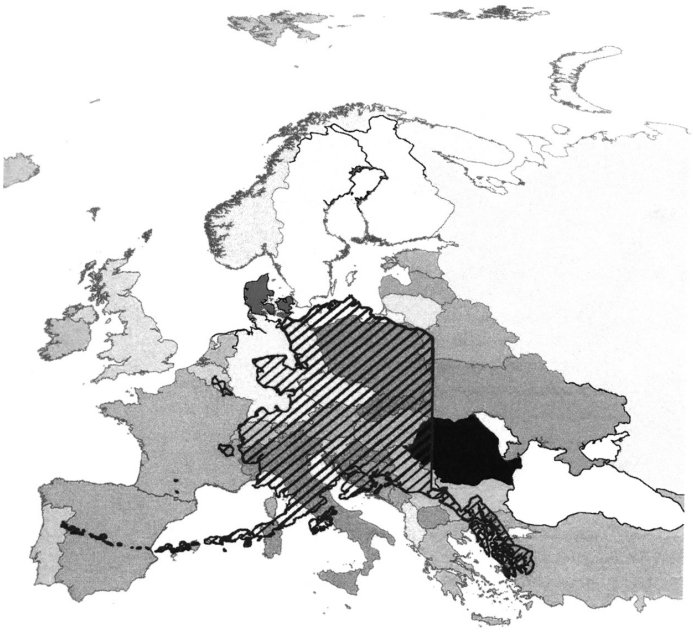
229	Federally recognized tribal governments
168	ANCSA village corporations
4	ANCSA urban corporations (Juneau, Kenai, Kodiak and Sitka)
13	ANCSA regional corporations
12	ANCSA regional nonprofit corporations
85	Indian Housing Authorities
22	Alaska Native Regional Health Organizations
8	IHS Independent tribal 638 Compactors/Contractors
16	Organized State Boroughs (units of local government similar to counties found in most states), including 3 Unified Home Rule Municipalities (an organized borough which includes all the cities within the borough as a single unit of local government)
1	Unorganized borough encompassing about 2/3 of the State, made up of large areas of sparsely populated land, subdivided into **23 Regional Educational Attendance Areas (REAA's)** charged with administering local schools
21	First class cities
114	Second class cities

Background: To gain perspective, it is helpful to realize that the United States is about half the size of Russia, about 3/10th the size of Africa, about 1/2 the size of South America, or slightly larger than Brazil, slightly larger than China and about 2 1/2 times the size of Western Europe. Within the United States, Alaska is the largest state, about 2.3 times the size of Texas and about 1/5th the size of the lower 48 states.



Alaska has one of the largest Native populations in the United States. Our people make up about 22 percent of the total population in Alaska and our people are scattered across the entire breadth of the state. Our Native cultures are land-based, and our occupation and use of our land predates Plymouth Rock and the pyramids.

For comparison purposes, the next map is created by overlaying the boundaries of the State of Alaska over Europe. As you study the overlay, you will see how many countries of Europe are totally engulfed, or touched within the boundaries. They include Portugal, Spain, Germany, France, Switzerland, Italy, Austria, Slovenia, Macedonia, Bulgaria, Romania, Ukraine, Hungary, Belarus, Slovakia, and the Czech Republic. If you stop and think about this for a minute, you will understand how large Alaska is as a land mass and how great the logistics and infrastructure needs are in terms of building sustainable economies. To survive and prosper in such an environment requires tremendous effort and supportive government policies.



The CHAIRMAN. The Chair thanks the panel for their testimony, and travel sacrifices to be with us today.

The Chair will recognize first the Ranking Member from Alaska, Mr. Young.

Mr. YOUNG. Thank you, Mr. Chairman. Sorry. I hit the jackpot.

The CHAIRMAN. Yes, and you didn't know it.

Mr. YOUNG. Before I ask a couple of questions, thanks to the panel for your presentation. I would like to see everybody involved in this activity, and your recognition of how good the 8[a] contracts have worked.

But it hasn't been brought up, Mr. Chairman, I want to make it clear because this whole interest in the other committee has been on our 8[a]s in Alaska, Alaska Native Corporations, and for some reason they are saying that only they can have multiple contracts, and large contracts, that is not true. All Tribes are eligible for that, and that is why I would like to see you gentlemen at the table specifically because this is a nation issue. It is not just Alaska. Alaska is sort of in the forefront because they have been attacked, and I hope you encourage your tribes and your reservations, everybody to get involved because it is a great program. The government has been very successful.

Along those lines, Ms. Kitka, the Alaskan 8[a] programs have or are eligible for unlimited negotiated direct award or sole source contracts from the Federal government when individuals have dollar thresholds or capped amounts. The criticism I mentioned about this perceived disparity has plagued Alaska Native contractors.

Why do you think the structure is fair?

Ms. KITKA. Why do I think that the structure is fair?

Mr. YOUNG. As it is done today.

Ms. KITKA. Well, I think that the structure is fair because of the nature of our business enterprises and our corporations. In our land claim settlement in 1971, our land and resources were put into corporate structures, not the reservation economy. So our Native people are shareholders in these corporations, and so it is not one person that is benefitting in the 8[a]. Many of our corporations have thousands of shareholders, and so the beneficiaries of the work and the small return from the work on that is shared among a very large group of people.

Mr. YOUNG. That is what I wanted you to say because there has been some perception that because it is a Native corporation, or Alaska corporation or any other Native corporation, that those dollars are going to an individual when it is really being spread out in shareholder payments, and it is not one contractor which under the 8[a] program it goes directly to the benefit of that one person. But in reality, as we will hear from another witness today, the corporation, small village, Afognak, for instance, has 240 people. Any monies that is generated by a contract is dispersed between the 240 people, not just one person.

Ms. KITKA. Yes, Congressman Young, and in fact many of our corporations are expanding their shareholder roles, including the younger generation. Sealaska Corporation just voted to open up their rolls to expand to increase their shareholders, Arctic Slope, Nana, Inc., Doyon Limited, and others. So our corporations are growing in membership as our population increases. So the number of beneficiaries on that actually increases the Alaska Natives as more people are born.

Mr. YOUNG. Good. Again, though, Tex, I liked your comment too about there is a different culture. There is a sharing concept, and this program has been very successful in sharing any gains that were gotten, and it is again a classic example of a success story, and I just hope more people participate in it.

You mentioned, you know, added value products. The Alaskan and American Indian lands, native lands have huge possibilities of wealth of all types, and it should be used to create entrepreneurship by those shareholders and not just farmed out. I am talking about natural resources of all types, renewable and new. I just think it is a good program.

Anyone want to comment on that, and then I am through with my comments.

Mr. HALL. Congressman, just a brief comment. I appreciate your questions and your advocacy, but I guess my point is, to follow what you are saying, ITEA is multi-tribally owned by 15 Tribes that have an 8[a] contract with the SBA and the Marine Corps. So that is an example of more than one Tribe. And we started a beef and buffalo and foods, so we are going to need salmon. You know, we are going to need buffalo. We are going to need beef to enter into a DOD contract. I mean, one Tribe cannot supply. You need a multitude of Tribes and Native Alaskans, and we also have Native Hawaiians as part of our consortium. They might have some good fish there too.

So the bottom line is we can fulfill a contract if we have a consortium, so you are absolutely right, and that is the direction we are going.

Mr. YOUNG. One thing you have to keep in mind, we don't say "might" in Alaska. We have good fish in Alaska.

[Laughter.]

Mr. HALL. Got it.

Mr. YOUNG. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Young.

Tex, let me ask you my first question. Do the different regulatory criteria for ANCs and Tribal 8[a] and Native Hawaiian organization affect the operation of ITEA? You know, ITEA is a component of each.

Mr. HALL. Not at all, Mr. Chairman. Not at all. And ITEA is multi-tribally chartered. We have a for-profit—well, ITEA is a nonprofit, but has six for-profit companies, and with the 8[a] my understanding in talking with the SBA, and I think I mentioned it to Bill Largent as well when they hosted a meeting, ITEA is the only multi-tribally owned 8[a] contractor that has an 8[a] contract, but it just goes to show that if it is Tribal, lower 48 Tribes, Alaska Natives, or Native Hawaiians, the way the government is treating us is that we are a Tribal 8[a], and we have the same access that a Tribe in Sisseton, South Dakota, has as an 8[a] company. So there is no difference in the way that we are being treated by the SBA.

The CHAIRMAN. So as a holding company then, ITEA is not subject to the same nonFederal contracting requirements as other 8[a] companies?

Mr. HALL. Yes, that is correct.

The CHAIRMAN. OK. President Garcia, let me ask you. At the end of your testimony NCAI makes several recommendations on how to improve the 8[a] program. Do Alaskan Native and Native Hawaiians agree with your recommendations, and have you shared these recommendations with the SBA? If so, what are their responses to all above?

Mr. GARCIA. Yes. I think, Mr. Chairman, the most important thing to acknowledge is the fact that we have not worked in a bubble ourselves as NCAI or NACA or any of the other alliances. We have shared and we have held summits. There has been a lot of discussions about what factors might be the most feasible to push forward, and all of the recommendations that we made have been shared with the entities that you ask of, and so the recommendations have been put forth with that light, and with that in mind, so that we have more flexibility, we have strong partnerships, and that if we work together we solve the right problems. If Mr. Kildee was here, I think he would appreciate that we are solving the right problems, and so there are two partnerships in the discussions and the effort that we have put forth.

The CHAIRMAN. What can this committee do to help preserve these programs and expand the opportunities for those that are not participating therein?

Mr. GARCIA. One of the most important things I think that would be helpful is for this committee to use their judicial strength or their jurisdiction strength for also working with other entities with-

in Congress or within other funding sources, funding mechanisms, projects, and grants that are available, and help promote that and support the efforts that we put forth, but as well, I think, to help the other agencies in the Federal government to understand from this level perspective, from a congressional and a committee perspective that there are these good solutions, and Indian Country is a good risk for economic development.

To give you one prime example is that energy is a big issue in this country, and part of the solutions that this country ought to have is to go and work with the Native American community because the energy resides naturally in those regions and areas. And so if we partner up, then we have found partial solutions, not completely solution, but partial solution for the energy in this case, but there are numerous other areas that we can continue to work on like education, like housing, like infrastructure development, and those kind of things.

So I think that it would be very, very, very beneficial to all of us in terms of the country and what we can provide doing partnerships.

The CHAIRMAN. Great. Thank you.

Chairman DuMontier, how do you respond to those that claim that the Native 8[a] provisions give Native contractors an unfair advantage over other minority contractors?

Mr. DUMONTIER. I have a difficult time with the term "unfair" as a Tribal person, especially when it comes to economic development. I am certainly not going to lecture to this committee about the history of the Federal Tribal relationship or the fact that the United States Constitution has in it the Indian commerce clause that some 200 years later we are just getting around to doing something about.

What I do want to say is it is not unfair what Tribal people and Tribal businesses are doing. What is unfair is how we are being judged. The lack of information that goes with that judgment, the concerns that are being raised by opposing parties are not founded in fact. They are not founded with an understanding of what is happening in Indian Country, and that is the unfairness or the injustice that we are dealing with here, not the 8[a] program.

The CHAIRMAN. Beautiful response. Thank you.

My time is up. Let me yield to the gentlelady from California, Ms. Napolitano.

Ms. NAPOLITANO. You have heard some of the questions that I have had to the prior panel in regard to the funding that has been put in for assistance to minorities, especially Native Americans. Do you have any comments or any assistance that we can begin to focus on to be able to expand that assistance for economic development for training and education of the Tribe youngsters for a whole host of things?

I would like your comments, sir, Mr. DuMontier, in regard to it has been in the act for many years and we are just now moving forward. How can we not only accelerate it but put the emphasis on without having legislative mandate, which is ignored half the time?

Mr. DUMONTIER. I thank you, Congresswoman, for that question. I began my Tribal career over 30 years ago in Tribal education. So dealing with youth is near and dear to my heart.

What I do want to say is this. If we want to build Tribal entrepreneurs out of this current generation for the future, then what we have to do is support the Tribal entrepreneurs that we have in this generation. And if we want to support the Tribal entrepreneurs that we have in this generation, then we also need to take a look at the Tribal entrepreneurs that have succeeded over the last 20 some years, and I am referring to our friends to the North, the Alaska Native Corporations.

We talk in terms of the ANC problem or we talk in terms of the 8[a] problem, but the reality here is what we are talking about is Tribal business success. If we are going to build a good future, we have to not penalize those who are demonstrating the success and give our children something to look forward to, something that we can encourage them with.

Ms. NAPOLITANO. Explain penalize.

Mr. DUMONTIER. To date, even though there have been no regulatory nor legislative changes to the 8[a], it has been referred to at one point in time about five years ago by the Department of Defense as "bullet proof acquisition strategy for the war fighter." Today, it is referred to as a "loophole gone wild." There is a great deal of fear about using the 8[a] contracting tool because of all of the chatter and the noise that has been created around the very marginal successes the Tribal people are just beginning to demonstrate in this area.

So if a little bit of success is going to be met with opposition and fear, then what are our children going to learn from that, and what type of economy are the going to have to work and to build upon in the years to come?

We need to solve this problem now and embrace what is happening instead of fearing it.

Ms. NAPOLITANO. Could part of the solution to being able to develop strategy to help those economies be part of teaching, and I am talking in terms of teaching then health issue, how to address the alcohol issue, how to address all those issues, and have that be part of something that we can begin to not legislatively but through the administration, the agencies themselves be able to infuse more attention and funding toward that?

Mr. GARCIA. I would like to answer that if I may. The first thing is that when we talk about economic development there are assumptions in the country about infrastructure already exists, and when you talk about Indian Country that is so far from the truth. So I think it is important to realize that. If we are going to start projects, if we are going to start programs and grants, that is just a step in the right direction, but we have to realize that the infrastructure needs to be in place. That is the prerequisite of any business.

So if you talk about an infrastructure, infrastructure, I am a strong believer that the human infrastructure has to be in place because if you don't have the human infrastructure, then we are looking for people coming onto the businesses that we have to hire from elsewhere, and so what better protocol, should we have our own

protocol about building and growing our own, and that means talking about all of the opportunities that our children could have, but they have to be educated and we have to continue to promote that.

So in the bigger picture as I always say, we have to look at the educational process and build our own and grow our own so that they have opportunities, but also promote that if you have economic development, if you have diversity in your economic development, then our children can come back and they can help, and they will then build their own, and that is part of self-determination.

So I am proposing that that is where the partnerships within the other entities, Federal agencies, and any other program, that there ought to be a lot more flexibility when we develop grants and funding sources and other things, that the flexibility ought to be there so that we can integrate, and that is going to be the primary solution, otherwise it is a piecemeal approach which is the piece that we have been doing and it hasn't worked. Thank you.

Ms. NAPOLITANO. I believe Mr. Hall can answer that, please.

Mr. HALL. Madam Congresswoman, we, at ITEA, made an assumption that if we are going to create a couple hundred thousand jobs that there would have to be training dollars to go along with it. You just can't create that many jobs or 25,000 businesses with 100 employees each equals that, you just can't do that without training dollars.

So I just don't think that there are set aside that kind of dollars for the initiative that we at ITEA are talking about, but you are totally on point. When I was principal back in 1995, I don't even know if it still exists, it was called School to Work Program in Education, I got talked out of education because we would get them into grade 9 or grade 10, and then they would have to do job shadowing. Well, there were no jobs on the reservation, so that program kind of went to the side.

But now that jobs are really being focused on and being created in Indian Country, I think the training and those dollars have not come with it. So I really think there needs to be a special initiative that is discussed about the amount of dollars that are needed to create these amount of businesses and these amount of jobs. It is just not there.

Ms. NAPOLITANO. Thank you. Thank you, Mr. Chair.

The CHAIRMAN. The gentleman from American Samoa, Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. It is always a pleasure to see our dear and close friends, Tex Hall and Mr. Garcia, to testify, and Mr. DuMontier, I didn't have a chance to get to know you, and as the gentleman from Alaska had indicated earlier, always a real pleasure to welcome Julie Kitka to testify this morning.

I would be remiss if I did not also recognize the presence of a dear friend, a former member of the staff of this committee, say a fond "ya'ah'teeh" (hello) to Chris Sterns. Chris, are you there? I thought it was you. You picked up a little weight, but don't hide from us, Chris. Good to see you.

I am really torn by so much information and also for something that—I am torn by the fact of what can we do. Now, I know it sounds like a dreamy idea on my part to suggest that the very bill

that the gentleman from Alaska introduced earlier, a domestic version of the Millennium Account. I think it is an excellent idea, and my question is why can't we have a domestic version of the Marshall Plan? Why can't we have a domestic version of the free trade agreements that we have with all other countries of the world? I mean, why can't we do that, Mr. Chairman?

The CHAIRMAN. Why can't we do here what we are doing in Iraq? [Laughter.]

Mr. FALEOMAVAEGA. Only $3 billion a week, we have already expended $600 billion. Anyway, I sit on the House Foreign Affairs Committee, and there is a program that I want to bring to the attention of our good leaders here and put it out in Indian Country. It is called the Overseas Private Investment Corporation. They sit on a $6.2 billion pot to allow American companies or to encourage American companies and businesses to set up shop in a foreign country, and in return you provide jobs for those, especially Third World countries, jobs, employment, business opportunities, and I just wanted to share that with our friends here. It is out there, and please, if I could be of any help, why can't we do that? There is a pot in that little program that we have there.

I wanted to ask Mr. DuMontier, you noted quite well the fact that our friend from GAO really didn't have any more than just to suggest that we do more oversight of the 8[a] program. Could we put a little more teeth or maybe even more substance by way of amending the current law to satisfy some of the concerns that you raised here?

Mr. DUMONTIER. To satisfy the concerns that I have, all that needs to be done is for the program as it currently exists be given an opportunity or given the time to work. We don't need any regulatory or legislative changes to the existing tools that are in place. The successes that you have heard about today are a direct result of the tool that is in our place.

Our problem here is that there are those who now want to remove that tool or diminish that tool. All we are arguing for is an opportunity to continue the track that we have demonstrated some success on.

Mr. FALEOMAVAEGA. Can you share with us who are those who are trying to destroy the program? Is that a better term, destroy the program?

Mr. DUMONTIER. There are political leaders in the Congress that have gone on the record as indicating that the sole source provisions of the 8[a] program, combined with the inadequate oversight of the SBA, is a very dangerous tool to have in place.

We are Tribal people. We are first Americans. We understand working with the Federal government better than most people do. We would not do anything to harm it. We would not do anything to hurt the future of our children or what it is that we are trying to achieve with today's businesses. We are first American. We are putting America first, and those people who don't understand that need to learn about what we are here for.

Mr. FALEOMAVAEGA. Mr. DuMontier, I could not say more than what you have suggested here after 250 years, unfortunately, because every two years we have new members who have no concept,

no understanding, no appreciation of the problems with our first Americans. It is sad but that is the reality of the——

Mr. YOUNG. Would the gentleman yield?

Mr. FALEOMAVAEGA. I would gladly yield.

Mr. YOUNG. Would you please go back to my state and tell them that they need somebody with knowledge, and that type of thing. I would really appreciate it.

[Laughter.]

Mr. FALEOMAVAEGA. And taking my time back, I want to say to the gentleman from Alaska, and I really mean, sincerely mean what I say, I am not trying to comb his hair or whatever is left of his hair.

[Laughter.]

Mr. FALEOMAVAEGA. This is our saying in my culture. When you are trying to pat someone on the back don't comb his hair. OK. And I am not combing his hair. I really truly, truly of the years that this gentleman has served, and the 20 years that I have served on this committee, I cannot think of a person who is more committed to the needs of the Native Alaskan people, and Alaska, and should be because that is the people he represents, and by all means. So I won't say a White man. I am saying a human being, and I say this sincerely because, you know, when I saw the movie "Dances with Wolves" and the dream of the medicine man as he is taking Costner somewhere along the river, and you know what it seemed, the highest tribute of a Native American to live as a true human being, and I think that is something that we here in America should learn a lot more, and unfortunately, like you said, Mr. DuMontier, it is just really sad that not many of our fellow Americans know enough about the plight, the sufferings and the problems that our Native American community have had to endure.

Now, our African American brothers say "We shall overcome." You know what I say about our Native Americans? "We shall endure." This is after 500 years, and you are still enduring.

Julie, I am sorry, I didn't mean to put you out. I just wanted to say thank you, this proposed bill and what you are trying to do, and my good friend from Alaska is trying to do. I hope that every member of this committee should co-sponsor this legislation because it is an excellent pilot project of being more self-sufficient economically, and I want to say to the members of the panel, I always say this to my own people, education is the salvation to our Native American people. That is the bottom line. I don't care how you cut it. We have to focus on the fact that we need education for our Native American community. That is my humble opinion.

I am sorry, Mr. Chairman, I have taken too much of the time, but again I want to commend an excellent panel for bringing all of this, and my good friend from Alaska.

Mr. DUMONTIER. Sir, if I may address a portion of the question——

Mr. FALEOMAVAEGA. Sure.

Mr. DUMONTIER.—about what can you do. We talked about oversight, and part of the oversight issues have been raised because there is no real office or person designated at SBA to provide that oversight, and the questions you asked earlier about data. You know, there is no data that is categorically the Native American

side or 8[a], if you will, and I think that if the office was in place there would be plenty of opportunity to decipher and look at that data, gather the data, number one, and then to use the data to then further enhance all of the things that are happening in Indian Country relative to not just 8[a], but how it then helps economic development overall.

Mr. FALEOMAVAEGA. And if we do that, then they will say, well, this is race preference. I mean, I get hit with that all the time too. Every time we try to help our Native Americans, they say, oh, it is race preference. It is unconstitutional.

Mr. DUMONTIER. But there are other offices established in other entities like the Department of Energy. We just heard a confirmation about a person appointed to the Indian Office at the Department of Energy, and there are other agencies that have that same level of leadership, if you will. So it would be just a—I don't know if it requires legislation, but if it does, maybe that would be one thing, but if it can be done administratively, so be it. That would be more power to us. Thank you.

Mr. FALEOMAVAEGA. Thank you. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Eni. And I would say the words you had to say about our Ranking Member where appropriate, and most of them true only because of the strong women that has always stood behind him.

[Laughter.]

The CHAIRMAN. In this case, sitting behind him, and that is his wife, Lou.

Mr. FALEOMAVAEGA. Mr. Chairman, I second that.

[Laughter.]

[Applause.]

The CHAIRMAN. The gentlelady from South Dakota, Ms. Herseth-Sandlin is recognized.

Ms. HERSETH-SANDLIN. Thank you, Mr. Chairman and the Ranking Member. It is a pleasure to see our guests here today. I do want to commend all of the folks on the panel here, and say to the Chairman how much I appreciate the priorities he is giving these issues, and the importance of economic development, and the diversity of our economies in Indian Country to give our young people hope because, as you know and as Mr. Hall states in his testimony, as we all know, the vast majority of Tribes do not benefit from gaming. I would agree that we all know that sitting in this room, but I don't know that some of our colleagues and some of the other folks throughout the Executive Branch of government know that.

When I have my constituents come back from Washington and tell me that it seems like they think we can solve all of these problems without the obligations and commitment to the treaties because they think that the gaming facility we have in a remote part of south-central South Dakota is as lucrative as gaming facilities elsewhere in the country, and that is what leads to epidemics of teen suicide throughout Indian Country for young people who feel they have no hope.

So I think we have to tear down these barriers and these walls. We have to work more effectively to help inform and educate our colleagues and others across the country who are spinning and spreading misinformation about the 8[a] program and how it has

been used, spreading misinformation about the relative wealth of Native Americans in different parts of the country, and the culture, and the importance of community, and the misunderstanding that has been with us since the country began, of the culture and the sense of community and how you structured Tribal enterprises, and the importance of what that gives to individual members of a certain Tribe or, as Mr. Hall was telling us, all of the different Tribes that are participating in the Inter-Tribal Economic Alliance.

I just have a couple of questions on energy. Mr. Hall, could you explain further to the Committee the issues and the challenges that we are having in access to the electrical grid, especially as it relates to the Western Area Power Association?

Mr. HALL. Thank you, Congresswoman. Good to see you. I really appreciate that question.

At ITEA, we formed MTEC, Multi-Tribal Energy Consortium, a for-profit consortium, to follow what ICU, Bob Goff and Pat Speers have done with ICU on doing all of the feasibilities and the wind studies, now they are ready for development, but the number one problem is not having access to that grid in addition to the turbines.

Turbines, you know, that is another issue, but you can always find or manufacture or create a manufacturing company on a reservation to manufacture turbines, but getting access to the grid, when it runs through many reservations, it is really disheartening.

And so working through these initiatives through the Western Area Power Administration, I mean, I wish I could say it was better, but a lot of lip service, and I have wrote a letter to Senator Dorgan, who is the Chair on the Senate side on the energy, water and power, to look at legislation, and I would ask the Committee to consider that as well, that says that Native wind power will have preferential access to the transmission to the WAPA grid. Then we can truly help with other—Congresswoman Napolitano was talking about blackouts in California. We can't take the wind power from South Dakota or North Dakota or Montana, Wyoming, wherever in Indian Country because that is what MTEC was created for, to get to the development side, and then be able to wheel that power out to help those states and who are in a drought as well. Then, of course, we are in that. So we can't depend on the same types of energy sources.

But in order to really take advantage of this wind, and I think it is going to be—if not bigger than gaming, just as big, and gaming is a $25 billion industry—we are not going to get there unless we have access to that grid. In my opinion, Congresswoman Herseth, is to have legislation, to have priority and preference to that grid.

Ms. HERSETH-SANDLIN. Thank you, Mr. Hall, and I would just ask my colleagues. You know, there is access, or excuse me, there is room on the grid. Oftentimes when you talk about the wind resource in the Great Plains there is the issue of transmission that comes up, and the lack of transmission capacity to get it to the West coast or the East coast. There is room on grid. It is just that we have these barriers, and the focus on hydropower, which we in no way want to neglect, but we have to develop further this tremendous wind resource that can be beneficial not only to those who

live in the Great Plains, but those in every part of the country if we break down this barrier.

Again, I appreciate, and would just suggest, in light of the comments that were made earlier about working with other committees of jurisdiction, other agencies, that clearly there is, given the number of veterans, Native American veterans, the highest number per capita of any minority group in the country that serves in the Armed Services, that there clearly are opportunities as well through programs that benefit veterans in particular to continue to find partnership where they are actively involved across Tribes, building on the model that ITA has used.

So thank you, Mr. Chairman. Again, I appreciate the hearing.

The CHAIRMAN. Thank you.

Mr. GARCIA. Mr. Chairman, if I may add just a note.

The CHAIRMAN. Yes.

Mr. GARCIA. I think there is already Federal law that exists that says that if you generate energy or power within whatever location, that it is law that the power companies have to buy that power from you. First you serve your community initial lower power needs. But any left over if you generate a lot of power, you can sell that back to the power company and the power companies are obligated to buy that power. It is just, I think, a more technical issue about interfacing where that power comes into the grid.

And if interface is a problem, that is something that can be solved technically. I mean, its capabilities is already there. It is just a matter of forking up the dollars to make that interface happen.

The CHAIRMAN. Thank you. The gentleman from Arizona, Mr. Grijalva.

Mr. GRIJALVA. Thank you, Mr. Chairman. Just brief comments and one question/example.

I appreciate the comments, Mr. Garcia's comments about there has to be human infrastructure along with the capital infrastructure. That is the whole strategic way to deal with it.

I am a member of the Small Business Administration, and the 8[a] provision that we are talking about, sole source, I believe very strongly is a necessary mechanism to assure fairness and opportunity for all peoples, and I continue to believe that.

I think also, as pointed out by one of the witnesses, that we have had—in my four years there we have had no oversight hearings at SBA relative to things that are going on within the agency, let alone this provision. So nevertheless, I really feel that the oversight hearings that need to happen there on this issue can be of great benefit in strengthening it, strengthening the office that is responsible for this, and doing away with a lot of misconceptions and misunderstandings that are occurring about that. Then I think the Small Business Administration Committee needs to pursue that as well.

I want to use an example. I think, as we talk about a comprehensive approach to economic development in Indian Country, which is vital, that involves the human and the capital infrastructure, one of the things, Mr. Chairman, that I think this committee needs to look at as well, and we have tried to correct it in some of the appro-

priations process, is the issue of our tax code and what it does and doesn't do for Indian Country in terms of providing opportunity.

On the issue of renewable energy, alternative energy, one foot outside the reservation that is 100 percent credit, tax credit. Inside the reservation, it is 50 percent tax credit. I think those are the kinds of adjustments that I think go a long ways to making Indian Country competitive in joint ventures with a private entity. If the private entity can go to a municipality and get 100 percent tax credit, they are going to go there. It is their pocketbook.

So those are the kinds of adjustments and a comprehensive look at economic development, which is the tax code as well, I think could be beneficial.

With that, Mr. Chairman, I really don't have any questions unless any of the witnesses would like to comment.

Mr. GARCIA. I have a simple comment. Thank you for the suggestions, and I think that was one of the other things that asking what can this committee do is to use your influence to hold the SBA oversight hearings or other hearings, if you will, and so thank you for that.

In terms of renewable energy or tax credit, there is a gasoline tax credit in place in the State of New Mexico, and it has to do with the fuel tax. Now, if a Tribe owns a gas station, it used to be that the 17 cents tax that was collected used to be paid to the state. Well, we have mustered up enough political clout, I guess, and wherewithal to say that it can be a joint powers agreement that the 17 cents tax on Tribal lands goes to the Tribe. It doesn't go to the state, and it is not even channeled to the state and then get reimbursed. It goes directly to the Tribal entities, and I think it would be the same thing in terms of energy if that becomes law. I don't know that there needs to be a Federal law. If it could be part of a state, then that would be just as well, but I think those credits are workable, and I don't really remember what the Federal law says about tax credit, but it ought to be offered.

Mr. GRIJALVA. Thank you.

Ms. KITKA. Mr. Chairman, could I respond to that?

I think that the issue of the investment climate in our country needs to be revisited regularly because of all the overseas competition and what other countries are doing to incentivize business going to their area. I would be happy if the United States provided to Native Americans the incentives that we as a country provide to China, India, and Brazil.

I think that one of the biggest things that we can do to increase economic development to benefit Native Americans is to change the investment climate and incentivize business creation and opportunities. In our testimony, we have outlined a number of things that could be done, and we would be pleased to provide legislative language for consideration of ideas and work with the Committee further on that, but we feel very strongly that the economic climate in the world changes so rapidly that in order to keep Native American businesses competitive with all the other global competition, we have just got to keep paying attention to that and focus, and create those opportunities and support our businesses. Like I said, we would be delighted to provide any backup or further work on that.

The CHAIRMAN. Thank you. Yes, Tex.

Mr. HALL. Mr. Chairman, I just have one final thought and recommendation, and it kind of goes back to what everybody was talking about, more of a bigger, broader report, but this is the language that Congressman Kildee was talking about with the small business bill I passed, and it is talking about a report on the 8[a], and it is due December 31, 2007.

But I think my recommendation is that the Committee should consider a report on what we talked about. I mean, I learned from the lady at GAO that no legislation is needed, and I think that is why Congressman Kildee said what he said, and then with the tax codes that the Congressman from Arizona was talking about, the tax codes, he is absolutely right. There is a difference, and so that is why there is part of the problem there is a lack of development from the renewable side of it because you don't get the same equal tax credit, and lack of training and more education.

We also talked about there is misunderstandings from other Americans, I will just say that, that not all Tribes are rich from gaming, and that Tribes and the Federal contracts are less than 1 percent. So I think a report would go a long ways toward really helping in that matter, Mr. Chairman, so I would encourage. And I know that I and our staff, and I am sure everybody else that testified here today and their staffs would be happy to help, and then you have the SBA, the BIA would help the Committee to put forward such a report about the real status of the economy in Indian Country. So I would encourage that, Mr. Chairman.

The CHAIRMAN. Thank you very much.

Lady and gentlemen, we thank you very much for your testimony today. Very interesting. Very helpful to us.

Our third panel compose the following individuals: First, Ms. Sarah Lukin, Director of External Relations, Afognak Native Corporation and Alutiiq, LLC, from Anchorage, Alaska; Mr. Neal McCaleb, McCaleb, sorry.

Mr. MCCALEB. McCaleb.

The CHAIRMAN. McCaleb, thank you. Chairman of the Board of Directors, Chickasaw Nation Industries, Incorporated, Ada, Oklahoma; and Mr. Jonathan Taylor, Research Associate, The Harvard Project on American Indian Economic Development, Harvard University, Cambridge, Massachusetts, and Senior Policy Associate, Native Nations Institute, University of Arizona, Tucson, Arizona, and President of The Taylor Policy Group, Incorporated, Cambridge, Massachusetts. Wow, speaking of wearing several different hats.

The Chair will recognize the Ranking Member to introduce our first panelist.

Mr. YOUNG. Thank you, Mr. Chairman, and it is my pleasure again to introduce a lovely lady that is a classic example of how successful 8[a] programs have been in Alaska from a small village, and the results, and I think her testimony will be very telling of how important this is to this area, and it is Ms. Sarah Lukin, who is a little bit nervous now, but she is doing a great job. She didn't expect to be first, but we decided to put the lady first this time and the gentlemen second.

So Sarah, you are on.

STATEMENT OF SARAH LUKIN, DIRECTOR OF EXTERNAL RELATIONS, AFOGNAK NATIVE CORPORATION, AND ALUTIIQ, LLC, ANCHORAGE, ALASKA

Ms. LUKIN. Cama'i. Hello, Chairman Rahall, Ranking Member Young, and Distinguished Members on the Committee of Natural Resources.

My name is Sarah Lukin. Quyanaa. Thank you for allowing me the opportunity to provide a village perspective in this hearing, and to discuss how the 8[a] program has impacted my life, my family, and my community. I have a short statement to read and would like to submit my longer written testimony with appendix for the record.

The CHAIRMAN. Without objection, all testimonies will be made part of the record.

Ms. LUKIN. Thank you. Under the SBA 8[a] program, Alaska Native Corporations and Tribes perform government contracts and perform them well. The earnings from these contracts are, in turn, distributed to provide benefits for entire Native communities. My family is living proof of the positive impact and Alaska Native Corporations success in the 8[a] program has had on my village. It isn't a hand out, it is a hand up. I worked hard for everything that I have. 8[a] gave me the fortitude to fight my way out of poverty to achieve my dreams. It unlocked my potential and my family, my community, and the local Alaskan economy have all benefitted as a result.

I am Alutiiq from the Native village of Port Lions on Kodiak Island, a remote community of 250 people in the Gulf of Alaska. I am a shareholder of the Afognak Native Corporation, my village corporation, and Kodiak, Incorporated, my regional corporation. I serve on the Native Village of Afognak Tribal Council. There are no roads connecting my village to other communities. It is only accessible by small boat, small airplane, or a seasonal ferry from the mainland.

This remoteness, so common among our rural Alaska Native villages and many Tribes in the lower 48 states means there are few economic development opportunities for our community. Like so many of our Native children, I was a statistic. I come from a broken family that faced substance abuse and poverty. I remember how ashamed I would feel when I had to buy groceries with food stamps and wear secondhand clothes. No one in our family had ever earned a degree before, but my two sisters and I had been given an opportunity our parents never had, one that has empowered us to overcome enormous odds and experience our own American dream.

Scholarships from my Native corporations helped me to attend college. I earned a bachelor's degree from the University of Alaska, Anchorage, in 2001. I worked hard, excelled in my classes while employed as an intern at my regional corporation, getting on-the-job skills. I graduated with a master's degree in rural development from the University of Alaska, Fairbanks, in 2005.

Today, I am the Director of External Relations for Afognak Native Corporation in our government contracting subsidiary, Alutiiq, LLC. I am a Native shareholder in a leadership position,

working directly in support of our business, serving our 700 shareholders and their families.

Both of my sisters have earned master's degrees as well, and have worked for various Native organizations to improve the quality of life for our Native people.

My dad had been a carpenter and a fisherman his entire life. A couple of years ago at age 53, after Afognak had begun to experience success in the 8[a] program, he decided to build his own sports fishing charter business in our village. He received Native Corporation scholarships to cover the costs for the required Coast Guard training and certification, and he utilized his Native dividends to help purchase a boat and other needed equipment.

Today, he is focusing on expanding his business and employing young students, directly impacting the local village economy.

Alaska Native Corporations and Tribes, unlike individually owned 8[a] companies, are responsible for providing benefits to entire communities. In addition to dividends, jobs, and scholarships, my Native corporations support a variety of programs to help sustain our culture and values. One of my favorite programs is the Dig Afognak Cultural Camps run by the Native Village of Afognak. At these camps are children, like my son, Kadin, are learning Alutiiq history, culture, language and traditional ways from our elders. But my village is only one of many Native communities benefitting from Alaska Native Corporation and travel participation in the 8[a] program.

Other Alaska Native Corporations and Tribes are building community infrastructure and capacity, developing drug abuse prevention programs and management trainee programs, just to name a few.

Through the contracts we successfully perform, 8[a] empowers our Native corporations and tries to improve the quality of life of our people and strengthen our communities by providing job opportunities, scholarships, dividends, social and cultural program support. 8[a] must continue so that younger generations of Alaska Natives and Natives Americans may have the same opportunity to improve their lives.

I am one person representing many more young Alaska Native and Native American professionals. We are the future of our communities. We will continue to stand on the shoulders of the Native leaders before us, and overcome enormous odds to help shape the future for the next generation. We will continue to focus on economic self-determination.

Quyanaasinaq, thank you very much for your time, and I would be happy to answer any questions you may have.

[The prepared statement of Ms. Lukin follows:]

Statement of Sarah L. Lukin, Director of External Relations, Afognak Native Corporation and Alutiiq, LLC

Cama'i (hello) Chairman Rahall, Ranking Member Young, and distinguished Members of the Committee on Natural Resources. My name is Sarah Lukin. Quyanaa (thank you) for allowing me the opportunity to provide a village perspective in this Hearing, and to discuss how the 8(a) program has impacted my life, my family and my community. I have a short statement to read and would like to submit my longer, written testimony for the record.

I am Alutiiq from the Native Village of Port Lions on Kodiak Island, a remote community of 250 people in the Gulf of Alaska. I am a shareholder of Afognak

Native Corporation, my village Corporation, and Koniag Incorporated, my regional Corporation, each of which were created and mandated by the Congress through passage of the Alaska Native Claims Settlement Act (ANCSA) in 1971. I serve on the Native Village of Afognak Tribal Council and the National Congress of American Indians Executive Council.

There are no roads connecting my Village to other communities. It is only accessible by small boat, small airplane or a seasonal ferry from the mainland. This remoteness, so common among our rural Alaska Native villages and many lower 48 Tribes, means there are few economic development opportunities for our community. Alaska Natives cannot pursue gaming, leaving 8(a) as one of the only other viable economic engines available for our remote communities. The Alaska Native Corporations 2005 Economic Data Wooch Yaayi: Woven Together elaborates, "In the early years, the successful [Alaska Native] corporations were those blessed with an abundance of various natural resources. Now, under 8(a), the playing field is more level. Smaller corporations, or those with few natural resources, can compete in non-resource based industries and grow their businesses for their shareholders' (ANCSA Regional Corporations Presidents & CEOs, Inc., 2007).

Like so many of our Native children, I was a statistic. I come from a broken family that faced substance abuse and poverty. I remember how ashamed I'd feel when I had to buy groceries with food stamps and wear second hand clothes. No one in our family had ever earned a degree, but my two sisters and I have been given an opportunity our parents never had—one that has empowered us to overcome enormous odds and experience our own American Dream.

Scholarships from my Native corporations helped me attend college. I earned a Bachelors Degree from the University of Alaska Anchorage in 2001. I worked hard, and excelled in my classes while employed as an intern at my regional corporation gaining on-the-job skills. I graduated with a Master's Degree in Rural Development from the University of Alaska Fairbanks in 2005. Today, I am the Director of External Relations for Afognak Native Corporation and our government contracting subsidiary Alutiiq, LLC. I am a Native shareholder, in a leadership position, working directly in support of our business.

Both of my sisters have earned Master's Degrees and have worked for various Native organizations to improve the quality of life of our Native people.

My dad had been a carpenter and fisherman his entire life. A couple of years ago, at age 53, and after Afognak had begun experiencing success in the 8(a) program; he decided to build his own sports fishing charter business in our village. He received Native corporation scholarships to cover the costs for the required Coast Guard trainings and certification, and he utilized his Native dividends to help purchase a boat and other needed equipment. Today, he's focusing on expanding his business and employing young students, directly impacting the local village economy. His story clearly illustrates the spirit of intent for Alaska Native Corporation and Tribal participation in the 8(a) program—to provide the tools necessary for people like my dad to give back to our communities, in more ways than just employment with the corporation.

My family is living proof of the positive impact an Alaska Native corporation's participation in the 8(a) program has had on our village. It isn't a hand out, it's a hand up. I worked hard for everything I have. 8(a) gave me the fortitude to fight my way out of poverty—to achieve my dreams. It unlocked my potential: my family, my community and the local Alaskan economy have all benefited as a result. A paper, published last week by the Native Nations Law & Policy Center of the UCLA School of Law, titled Federal Contracting Support for Alaska Natives' Integration into the Market Economy, states, "Competitive and self-sufficient ANCs will help alleviate economic and social disadvantages of Alaska Native communities, increase tax revenues, and reduce the costs of government support programs to Alaska Natives." My company, Afognak Native Corporation, works hard, providing much needed services to the federal government at good value and, as a result, it is able to help shareholders like me and other members of my family achieve a better future. I am no longer a statistic.

Alaska Native corporations and Tribes, unlike individually owned 8(a) companies, are responsible for providing benefits to entire communities of Native people. Afognak Native Corporation, like most of the Alaska Native corporations, has staff dedicated to assisting shareholders find employment within our family of companies, and with other organizations. The staff also helps shareholders obtain the training and educational opportunities necessary to improve their skills and job prospects. Afognak recently started a formal Internship Program to provide shareholders and descendants with valuable work experience which in turn, will provide them with marketable skills. ("Descendant" is the term used in ANCSA for shareholders children. Descendants often qualify for the same benefits in a Native Corporation as

their parent[s] and may hold a different class of stock.) Interns will receive competitive pay and a full benefits package, including insurance and a retirement plan.

To increase the quality of life for our over 700 shareholders, Afognak has been able to provide a substantial annual dividend, as a direct result of our participation and success in the 8(a) program. In 2005 Afognak paid $10.8 million in dividends, providing the average shareholder (holding 100 shares) with $21,000. In 2006 Afognak paid $11.1 million in dividends, providing the average shareholder with $21,688. In addition, Afognak has a Shareholder Permanent Fund and a Trust so that future generations will also benefit from today's business success. These dividends mean a tremendous amount to our members—young families just starting out, elders, and families who live a subsistence lifestyle in our traditional village.

Scholarships are a vital component for our future to ensure we have educated, experienced shareholders to lead our corporations. Karl McLaughlin, a shareholder of Afognak Native Corporation, is an excellent example of this. Karl began his career over 14 years ago as an intern at Afognak and later became a network technician. He climbed the ranks of the company as he finished his formal education with financial assistance from Afognak's scholarship program. Karl graduated with a Bachelor's degree from the University of Alaska and later earned additional information technology related certifications. Today Karl is a leader in our company. As the Senior Vice President of Information Technology for Afognak Native Corporation he is part of our executive team, and oversees all IT related operations for a company with 4,700 employees nationwide.

In addition to dividends, jobs and scholarships, my Native corporations support a variety of programs run by local organizations to help sustain our culture and values. One of my favorite programs is the Dig Afognak Culture Camps, operated by the Native Village of Afognak. At these camps our children, like my son Kadin, are learning Alutiiq history, culture, language, and traditional ways from elders. Perpetuating Alutiiq traditions is a core value of our people, and keeps our youth grounded in their identity as they move forward in corporate America, strengthening our community.

Supporting the Alutiiq Museum & Archeological Repository through financial and in-kind contributions is a top priority for Afognak Native Corporation. The Museum has implemented several programs to save and revitalize Alutiiq language, culture, and traditional ways. For example, the Alutiiq Museum, working closely with our Native corporations, has conducted numerous archeological digs to save 10,000 years of Alutiiq history from vandalism and erosion. To date the Museum has gathered tens of thousands of artifacts. These fragile irreplaceable treasures, gathered for our people by our people, are truly a library. They contain incredible information on our ancestor's lives. They hold the stories of our people that are available from no other source. Thousands of our artifacts are currently housed at the Alutiiq Museum in Kodiak and at Afognak Native Corporation's recently constructed 1,200 square foot museum facility in Anchorage.

But my village is only one, of many Native communities, impacted by Alaska Native corporation and Tribal participation in the 8(a) program. The Native American Contractors Association (NACA) compiled data from 12 Alaska Native corporations in 2005 on the benefits they provide to their shareholders. NACA reports that Alaska Native shareholders received $33.6 million in dividends while $5.5 million was donated to various cultural and social programs and $9.5 million was awarded in scholarships to Native students (NACA Briefing Packet, http://www.alutiiq.com/pdf.8a-Program-Data.pdf, last visited September 13, 2007). There are many examples of the unique ways in which Alaska Native Corporations fulfill their responsibilities to their shareholders.

For example, Chenega Native Corporation provides essential health and insurance components for its shareholders, in an effort to meet the ongoing, everyday needs of its villagers.

The Aleut Corporation last year provided free homes to 52 shareholder families on Adak Island and will be providing additional affordable housing in the near future. This new Adak community will be an excellent employee base for a local Sea-Based X Band Radar Project under its Missile Defense Agency Contract.

Ahtna Incorporated, has donated significant time, materials, and labor to the construction of a community recreation and learning center project in the Native Village of Kluti-Kaah. The recreation and learning center, once complete, will promote healthy living, cultural pride, and positive alternatives to substance abuse. Ahtna has been working with the local community to train and employ local shareholders to construct the center, building workforce skills and boosting the local economy.

Although Alaska is remote, it is not isolated from the methamphetamine abuse epidemic sweeping the country, especially Indian Country. Arctic Slope Regional Corporation has taken a leadership role within their region to fight the war against

substance and alcohol abuse. In partnership with local organizations, Arctic Slope Regional Corporation has a full-time position dedicated to fighting the War on Drugs.

Chugach Alaska Corporation has an entire department committed to Shareholder Development. The Shareholder Development Department recently created a Succession Plan/Program that provides training, education and other skills to Shareholders and Descendants demonstrating "high potential" for becoming a leader within the Corporation. Programs like this are designed to incubate our own Native executives to lead our companies in the complex global market. As Alaska Natives continue to learn the skills to provide the executive leadership necessary to carry our companies into the 22nd century, we need to have the ability to hire experienced capable staff:

> In order to be competitive and enhance Alaska Native Shareholder and corporate self sufficiency, ANCs must have the flexibility to hire talented staff and executive leadership—This means that many employees and top managers will not always be Alaska Natives. Innovative executives with the social and cultural skills to navigate and serve the interests of Alaska Native corporate boards are rare and should be praised and compensated accordingly, if they are improving assets, profitability and the missions of serving and upholding Alaska Native cultural, self-determination, and economic goals. (Champagne & Goldberg, 2007, attached.)

Not every shareholder or descendant desires employment with their Alaska Native corporation, nor should they be expected. Native corporations recognize this and embrace the opportunity to provide tools to help shareholders succeed in various walks of life. For example, Chugach Alaska Corporation's Shareholder Development Department administers a Shareholder Business Assistance Program (SBAP). Under the annual SBAP, shareholders and descendants who have an existing business, or an innovative concept, can apply for a grant to further their plans. The shareholder must submit an application and a summary business plan. The applications are scored by an independent third party for merit and chance for success. This is an excellent way the corporation can assist shareholder owned businesses to encourage economic self-determination in their rural villages. Some of their recent awards went to a Fur Sewing Business, expansion of a hair salon, a construction company, a mortgage business, an equipment rental operation, a sports lodge, an ice cream shop, a jewelry business and a feed and grain store.

Oolognik has, for the last few years, had a summer work program in the Village of Wainwright. This local program is funded from the profits generated by Oolognik's participation in the 8(a) program. Through the summer work program Oolognik is able to employ 10 to 20 shareholders to perform various improvements to the corporation's hotel, store, offices and other assets in the village. This program has been a great success; providing jobs, training, and payroll while improving the infrastructure of the local community.

NANA Regional Corporation represents the remote northwest arctic region of Alaska. Their villages face extraordinarily harsh winters. Each year shareholders are swept away in icy waters or lost on the tundra in white-out conditions when hunting, fishing or traveling between villages. In an effort to save lives, the NANA family of companies began researching several technologies available to help with search and rescue operations. The three-year project was spearheaded by NANA's Alaska Native interns. As a result of the interns' work, NANA has purchased several Personal Locator Beacons (PLBs) for their 11 northwest villages. The PLB is a small hand-held device that villagers can check out free of charge and, when activated, transmits a signal to the Alaska Rescue Coordination Center so a rescue operation can be coordinated immediately between local, state and federal authorities, decreasing the chance of a fatality.

8(a) empowers our Native corporations and Tribes to improve the quality of life of our people and strengthen our communities by providing job opportunities, scholarships, dividends, social and cultural program support. 8(a) must continue so that younger generations of Alaska Natives and Native Americans may have the same opportunity to improve their lives. "Continued support and guidance from SBA programs will incubate market competitiveness among ANCs allow[ing] Alaska Native and Congressional goals of economic self-sufficiency and greater local self-government and cultural recovery [to be achieved] more quickly and efficiently" (Champagne & Goldberg, 2007, attached). 8(a) is the shining light that completes the ANCSA story.

I am one person representing many more young Alaska Native and Native American professionals. We are the future of our communities. We will continue to stand on the shoulders of the Native leaders before us and overcome enormous odds to shape the future for the next generation—our children. We will continue to focus on economic self-determination.

Quyanaasinaq (thank you very much) for your time.

Federal Contracting Support for Alaska Natives' Integration into the Market Economy

Professor Duane Champagne (Sociology)
Professor Carole Goldberg (Law)
Native Nations Law & Policy Center
UCLA School of Law
Los Angeles, CA
September 13, 2007

Introduction

The SBA (Small Business Administration), according to current law, supports Alaska Native Corporations (ANCs) and American Indian tribal businesses in 8(a) contracts, as minority and economically disadvantaged businesses.[1] In compliance with statutory and administrative guidelines, 8(a) government contracts can be awarded to minority and economically disadvantaged businesses on a sole-source basis without requiring multiple competitive bids. In addition, federal legislation allows American Indian and ANC firms to bid on larger contracts than other 8(a) contractors, and also allows tribes and ANCs to operate multiple 8(a) firms.

A recent GAO (Government Accountability Office) report on ANCs and 8(a)[2] does not challenge the legislation or the eligibility of ANCs for 8(a) contracts, so long as they qualify as an ANC or non-profit and are more than 50% tribally owned.[3] And some personnel in government agencies find working with ANC's in non-competitive contracts is often more efficient and effective than competitive contracting processes.[4] Furthermore, government vendors often understand the government's purpose and intent of providing ANCs with contract opportunities that will encourage long term market enterprise and self-sufficiency within tribal communities.[5] The Native American Contractor's Association encourages the SBA to give more attention to the market enterprise goals of tribal communities,[6] and the SBA has discussed the issue in reports over the last several years.[7]

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[1] The law that grants contracting benefits to minority and economically disadvantaged businesses, popularly known as Section 8(a) of the Small Business Act is codified at 15 U.S.C. § 637(a). In 1988 and 1992, Congress enacted laws specifying that ANCs shall qualify as minority and economically disadvantaged businesses so long as the corporations remained majority owned and controlled by Alaska Natives. Likewise, subsidiaries and joint ventures involving ANCs qualify, so long as a majority of ownership and control remain with Alaska Natives. Pub. L. 100-241, § 15, Feb. 3, 1988, 101 Stat. 1788; Pub. L. 102-415, § 10, Oct. 14, 1992, 106 Stat. 2115. A similar provision affords a preference in defense contracting to ANCs. Section 8014(3) of the Fiscal Year 2000 Defense Appropriations Act, Pub. L. No. 106-79, enacted October 25, 1999, 113 Stat. 1212, 1234.

[2] David E. Cooper, Alaska Native Corporations: Increased Use of Special 8(a) Provisions Calls for Tailored Oversight. Testimony Before the Committees on Government Reform and Small Business, House of Representatives (Washington, DC: U.S. GAO, 2006),

[3] http://ezcertify.com/certificationfacts/8afact12.asp. Federal courts have upheld the constitutionality of preferences for ANCs in government contracting, finding that the preferences do not constitute discrimination on the basis of race, but rather the expression of Congress's constitutional power over Indian affairs. See AFGE v. United States, 95 F. Supp. 2d 4 (D.D.C. 2002), aff'd 330 F.3d 513 (D.C. Cir. 2003). For an extended analysis of this issue, see Carole Goldberg, American Indians and "Preferential" Treatment, 49 UCLA L. Rev. 943 (2002).

[4] See Jerry Reynolds, "Native 8a Program: The Other Economic Initiative Success Story," Indian Country Today, June 6, 2007, p. 2 (pointing out that because of increased procurement demands post -9/11, "Federal procurement contracts became bigger, and personnel cutbacks at the SBA, charged with overseeing the Native 8a program, meant procurement officers could put a premium on the quick, large and legal contracts Native 8a firms alone were eligible to execute.").

[5] See AFGE v. United States, 95 F. Supp. 2d 4, 36 (D.D.C. 2002), aff'd 330 F.3d 513 (D.C. Cir. 2003), in which the Department of Defense argued that a contracting preference similar to 8(a) is justified because it "furthers the federal policy of Indian self-determination, the United States's trust responsibility, and the promotion of economic self-sufficiency among Native American communities."

[6] GAO, Contract Management: Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight, GAO-06-399 (Washington, DC: April 2006), pp. 67-77.

[7] GAO, Federal Procurement: Spending and Workforce Trends, GAO-03-443 (Washington, D.C.: April 30, 2003); GAO, Contract Management: Impact of Strategy to Mitigate Effects of Contract Bundling on Small Business is Uncertain, GAO-04-454 (Washington, D.C.: May 27, 2004); GAO, Small Business Contracting: Concerns About the Administration's Plan to Address

Continued

Very recently, however, the House of Representatives Committee on Government Oversight and Reform has been questioning the desirability of ANCs' participation in 8(a) contracts.[8] As part of a larger challenge to Administration use of no-bid contracts in the Iraq war and elsewhere, Congress has been considering measures that would curtail ANCs' share of 8(a) contracts.[9] Whether ANCs' current 8(a) status is warranted, and should continue, is the subject of this paper.

Nature and Purpose of Alaska Native Corporations (ANCs)

ANCs were created by the Alaska Native Claims Settlement Act of 1971(ANCSA) and have been modified numerous times by Congress,[10] including an amendment in 1988 designating ANCs as minority business enterprises and Congressional language in 1992 designating ANCs as "economically disadvantaged" enterprises.[11] Through this legislation, ANCs and their qualifying subsidiaries have been enabled to qualify for federal contracting and subcontracting, including SBA 8(a) and Department of Defense Small and Disadvantaged Business programs.

The purpose of ANC status from the Alaska Native point of view is to assist ANCs in gaining competitive access and capabilities to successfully generate economic growth within the market economy. ANCSA created the ANCs as part of the land claim settlement for most of the present state of Alaska.[12] Alaska Natives gave up aboriginal title claims (surface and subsurface, as well as hunting and fishing rights) to most of the land of Alaska, constituting nearly 375 million acres. In exchange, the Natives received approximately 40 million acres (about 12% of the area of the state) and $962.5 million, divided among over 200 village corporations and 12 (later 13) regional corporations. Each village was given an option to form a village for-profit corporation and most shareholders hold shares in both their local village and regional corporations. Village corporations received surface title to another 27.6 million acres, while the regional corporations got the subsurface rights to that same territory. Finally, regional corporations received full title to an additional 16 million acres.[13] While the amount of the settlement may at first seem large, it looks less bountiful when considered in light of the per acre payment ($3.00) and when compared with recent forms of Alaska assistance financed by oil revenues from state lands.[14]

The corporate entities established to receive settlement lands and funds were an experiment, intended as an alternative to putting the settlement in federal trust for tribes on reservations.[15] Corporations were supposed to free Alaska Natives from oppressive and inefficient federal control, and ease their adjustment to a market economy. The corporate shares were to be alienable to non-Natives after 20 years, in 1991. Soon, however, Alaska Natives realized that the corporations would not achieve Congress's goal of establishing economically viable and protective corporate entities by 1991. Furthermore, Alaska Natives came to view the provisions for transferability of corporate shares as termination in disguise, and they began to

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Contract Bundling Issues, GAO-03-559T (Washington, D.C.: March 18, 2003); GAO, Reporting of Small Business Contract Awards Does Not Reflect Current Business Size, GAO-03-776R (Washington, D.C.: May 7, 2003); and GAO, Interagency Contracting: Problems with DOD's and Interior's Orders to Support Military Operations, GAO-05-201 (Washington, D.C.: April 29, 2005).

[8] Prepared Remarks of Rep. Henry A. Waxman, Chairman, House Committee on Oversight and Government Reform, The Center for American Progress, Forum on a Return to Competitive Contracting, May 14, 2007, available at http://oversight.house.gov/documents/20070515121402.pdf (describing ANCs' participation as "a major procurement loophole").

[9] Small Business Fairness in Contracting Act, H.R. 1873, 110th Cong. This bill, which passed the House on May 10, 2007, would lower the limit on 8(a) contracts as a whole, cap the contract amount on noncompetitive contracts, and prohibit "bundling" of multiple contracts in order to facilitate execution by larger firms.

[10] Alaska Native Claims Settlement Act, 43 USC § 1601 et seq.

[11] See note 1, above.

[12] For a history of the Act, see Robert D. Arnold, Alaska Native Land Claims (Anchorage: Alaska Native Foundation, 1978); Donald Craig Mitchell, Take My Land, Take My Life: The Story of Congress's Historic Settlement of Alaska's Native Land Claims, 1960-1971 (Fairbanks: University of Alaska Press, 2001).

[13] Gigi Berardi, Natural Resource Policy, Unforgiving Geographies, and Persistent Poverty in Alaska Native Villages, 38 Nat. Resources J. 85, 93 (1998).

[14] Id. at 96. Berardi points out that "consumers served by the Four Dam Pool hydroelectricity projects in Alaska have benefited from $485 million in state grants and loans, equivalent to about $16,000 per beneficiary."

[15] See Thomas R. Berger, Village Journey: The Report of the Alaska Native Review Commission (New York: Hill & Wang 1985); Arthur Lazarus, Jr. & W. Richard West, Jr.,The Alaska Native Claims Settlement Act: A Flawed Victory, 40 Law and Contemporary Problems 132 (1976).

work with Congress to restrict that possibility.[16] The very same amendments to ANCSA that made ANCs eligible for 8(a) contracts are the amendments that protected settlement lands and funds from falling into non-Native hands.

Alaska Natives have lived on the land, and the loss of land seriously constrained access to land and subsistence life-style. The rights of Alaska Natives to use the land for their economy and subsistence has been in contention almost since passage of ANCSA, and federal authorities have had to reassume management of Alaska Native hunting and subsistence rights, since they were not protected under state law.[17] In effect, most Alaska Natives have lost the right and access to make a living in the traditional subsistence economy of hunting and gathering. The forty million acres left to Alaska Natives by ANCSA are not enough, or appropriately positioned, to fully support a subsistence economy.[18]

Both Congress and Alaska Native leaders created the ANCs as a means by which Alaska Natives could control settlement funds and land in for-profit corporations that would enable direct participation in the market economy. Alaska Native leaders agreed to the corporations since they wanted to avoid the paternalism and control exerted by the Bureau of Indians Affairs (BIA). Both Congress and Alaska Native leaders believed that the bureaucratic administration of Indian land assets in the lower forty-eight states did not create conditions conducive to active market participation in the economy and constrained management and initiative. Recent court cases affirm that Congress did not intend to put remaining Alaska Native settlement lands in trust with the U.S. government,[19] and in principle, the land is fee simple, most under management of the ANCs. ANCSA invites Alaska Natives to enter the market economy, and to support Alaska villages and individuals through increasing integration into the U.S. national market economy.

ANCs are organized along similar principles as most U.S. corporations, with an elected board of directors and individual shareholders. However, Congress, in ANCSA and subsequent amendments, recognizes that ANCs are organized to promote the economic interests of Alaska Native villages and individuals. Most ANCs, through their boards, shareholders, and tribal leaders, work to engage the market system with the goal of maximizing the benefits to their shareholders, many of whom live in traditional villages and who share common traditional indigenous cultures, values, communities, and identities. Alaska Native villages retain many rights and obligations to self-government as they exercised from time immemorial. For most Alaska Natives, the ANCs are institutions for ensuring the economic, political, and cultural well-being of their communities. In this regard, the ownership of ANCs and their purposes are different from most private corporations in the U.S. market place. The for-profit ANCs are designed to enable Alaska Natives to participate in the market economy, and follow shareholder interests, which for ANCs requires efforts to enhance community well being, support self-government, uphold language, and assist shareholders preserve their subsistence economy while opening new opportunities for market participation.[20] ANCs are like municipal utility corporations, that are serving the collective interests of the shareholder community, not only their individual finances. The ANCs administer land, assets, and moneys for the benefit of Alaska Native shareholders, who value their communities, lands,

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[16] Charles Wilkinson, Blood Struggle: The Rise of Modern Indian Nations (New York, NY: W. W. Norton and Company, 2005), p. 239.

[17] In 1980, Congress passed the Alaska National Interest Lands Conservation Act (ANILCA), which affords Alaska Natives some protection for subsistence uses on public lands, this protection appearing in the form of a preference for "rural Alaska residents." 16 U.S.C. § 3101 et seq. ANILCA allowed the state to regulate such uses if it could do so consistent with the federal preference; but the Alaska courts have invalidated every state effort to introduce a rural preference. Accordingly, since 1989, the United States has been regulating subsistence hunting and fishing on public lands in Alaska. See Nell Jessup Newton et al., Cohen's Handbook of Federal Indian Law 354-360 (Newark, NJ: LexisNexis, 2005).

[18] Wolfe, Robert J. Subsistence in Alaska: A Year 2000 Update (Juneau, AK: Alaska Department of Fish and Game, March 2000), p. 2.; Gigi Berardi, Natural Resource Policy, Unforgiving Geographies, and Persistent Poverty in Alaska Native Villages, 38 Nat. Resources J. 85, 96-100 (1998); The Harvard Project on American Indian Economic Development, The State of the Native Nations: Conditions Under U.S. Policies of Self-Determination (New York, NY: Oxford University Press, 2007), pp. 327.

[19] Alaska v. Native Village of Venetie, 522 U.S. 520 (1998).

[20] As Berardi notes, "three of the regional corporations—stress the ability of their shareholders to keep their cultural identity and subsistence lifestyle while participating in the wage economy on their own terms as Native corporation employees." Gigi Berardi, Natural Resource Policy, Unforgiving Geographies, and Persistent Poverty in Alaska Native Villages, 38 Nat. Resources J. 85, 102(1998).

languages, and continued community organization.[21] Alaska Natives are relatively new to competitive market-based economies, and have locations and limited resources that do not position them well for advantageous participation in markets.

ANCs, 8(a) Contracting, and the Road to Market Participation

A primary goal of U.S. policy is that ANCs will help alleviate poverty and economic and social disadvantage among Alaska Natives.[22] Alaska Natives continue to endure high rates of poverty, low per capita incomes, lower levels of education, many health problems, and many social problems such as high suicides (three times the rate of other Alaskans), high rates of crime, and incarceration.[23] These conditions are exacerbated by the decline of local subsistence economies, and loss of access to land and resources.

The path to participation in the market economy is not easy for any culture or community. Alaska Natives seek greater ability to manage their for-profit corporations in order to provide employment, management skills, experience with business partnerships and business opportunities for their shareholder-community members. Economic self-sufficiency is the goal of the ANCs and their shareholders.[24] This goal can be achieved only through active participation in the U.S. and world economy. Most likely ANCs will need to be full participants and competitive players in the market place. Most ANCs may not have local advantages that will not enable them to succeed easily. Rights to the most lucrative oil and natural gas reserves in Alaska were not retained by Alaska Natives under the ANCSA. The main economic advantage of the Alaska region is not directly in the control of the Alaska Native communities, and therefore, ANCs must use other means and less advantageous resources to achieve a permanent foothold in the market economy.

How do ANCs benefit shareholders? As mentioned already, some primary concerns for ANCs are supporting village life and community, helping preserve language and culture, assisting in the transition to the market economy, protecting and sustaining the remnants of their subsistence economy, and promoting education, health, and the well being of shareholder-community members. Most U.S. corporations are not so socially and culturally responsible or have shareholders who require their corporation to invest in the community and future of their shareholders. Most U.S. corporate shareholders are individuals and are seeking to maximize their incomes. Although it is not a foreign concept for investors and beneficiaries of large funds, such as retirement funds or endowments, to insist that investments only go to enterprises that are ecologically sound, or tobacco free, or that are showing responsibility as corporate citizens, most corporations are not as thoroughly responsible for the well-being of their shareholders as are ANCs.

In the annual report for the 13 major ANCs and three village corporations for 2005, the corporations collectively had revenues of $5.85 billion and assets of $3.83 billion. The major ANCs paid $88.7 million in dividends to shareholders. The corporations employed 3,380 Alaska Natives and employed 13,604 individuals in the state of Alaska. A total of $8.97 million was given in charitable donations, most ben-

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[21] For a discussion of contemporary form of American Indian economic organization see: Champagne, Duane "Tribal Capitalism and Native Capitalists: Multiple Pathways of Native Economy" Social Change and Cultural Continuity Among Native Nations (Lanham, MD: AltaMira Press, 2007), pp. 45-65; See also Hosmer, Brian and Colleen O'Neill Native Pathways: American Indian Culture and Economic Development in the Twentieth Century (Boulder, CO; University Press of Colorado, 2004); Smith, Dean Howard Modern Tribal Development: Paths to Self-Sufficiency and Cultural Integrity in Indian Country (Walnut Creek, CA: AltaMira Press, 2000).

[22] "Wooch Yaayi" Woven Together Alaska Native Corporations, 2005 Economic Data. A Look at Thirteen Regional Corporations and Three Village Corporations (Anchorage, AK: ANCA Regional Corporation Presidents and CEOs, Inc., 2007), p.4.

[23] Scott Goldsmith, Jane Angvik, Lance Howe, Alexandra Hill, and Linda Leask Status of Alaska Natives 2004 (Anchorage, AK: Institute for Social and Economic Research, University of Alaska, Anchorage, 2004), pp. 2-14, 3-2 to 3-39, 4-2 to 4-14, 5-2, 6-2 to 6-6; Alaska Native Policy Center, Our Choices, Our Future: Analysis of the Status of Alaska Natives Report 2004 (Anchorage, AK: Alaska Native Policy Center, 2004); The Harvard Project on American Indian Economic Development, Native Nations, pp. 326-329.

[24] See Letter from Sheri Buretta, President, Association of ANCSA Regional Corporation Presidents/CEOs, in MALRUGNI YUULUNI: Walking In Two Worlds With One Spirit: Alaska Native Corporations Annual Economic Report Based on 2003 Financial Data (Association of ANCSA Regional Corporation Presidents/CEOs, 2005), available at http://www.chugach-ak.com/pdf/7136ANCSA2005report.pdf: "ANCs have become the main vessel for our people to compete in the marketplace. They are the economic engines charged with creating economic value and opportunities in our homelands, employing our people, and supporting social and cultural programs important to our people. ANCs also are engaged in the larger economic arena to capture new technologies, build greater capacities in management and labor, and transform the way we do business."

efiting community organizations related to shareholders, and $4.4 million was distributed in scholarships benefiting 3,228 students, mostly shareholders.[25] In 2005, shareholder equity for the 13 major ANCs grew 19.3 % to $2.15 billion for a growth total of about a third of the original ANCSA payment of $962.5 million. Revenues for ANCs have shown steady growth over the 1995-2005 period. The 13 major ANCs had total revenues of about $1 billion in 1995, about $2.8 billion in 2001, and $4.4 billion in 2005. From 1995 to 2005, the total assets of the 13 major ANCs grew from about $1.6 billion in 1995 to $3.24 billion in 2005. Net income has been variable from year to year among the 13 major ANCS, but collectively positive from 1995 to 2005, ranging on average in the $120 million range, with a high of about $460 million in 2001 and a low of about $25 million in 2001. Net income for the major ANCs was $361 in 2005, an increase over $125 million in 2004. In 2005, 18 ANC regional and village corporations were among the top 49 businesses in the state of Alaska. ANCs claimed seven of the top ten spots, and Arctic Slope Regional Corporation and Chugach Alaska Corporation were numbers one and two. The 18 largest ANCs accounted for 11,000 jobs in Alaska and for 34,000 jobs worldwide.[26]

In 2005, ten regional ANCs and two villages ANCs, Alutiiq and Chenega, were the most significant participants in government contracting. The twelve leading ANC government contractors provided dividend income to shareholders totaling $33,663,803. Furthermore, the same twelve ANCs provided nearly $5.5 million for cultural and social support to Native communities, and $889,835 for non-Native social programs.[27] School programs, Elders Trust Funds, Potlatches and intern programs were supported with over $7 million from the twelve ANCs, and Native Permanent Fund programs had funds valued at $88.2 million in 2005. Government contracting through ANCs paid business payrolls in the State of Alaska totaling over $413.5 million, and employed 9,750 in Alaska, of which 3,170 were Native employees. In 2005, Government contracting ANCs were operating in 49 states, 2 U.S. Territories, and the District of Columbia. In the same year, 2005, the twelve ANCs engaged in 871 government contracts, and retained 31,717 employees in the United States.[28] ANCs are responsible corporate citizens, both Native and non-Natives are benefiting from employment opportunities, business growth, and charitable contributions generated by the Alaska Native Corporations.

The thirteen original ANSCA regional corporations serve approximately 109,000 shareholders, and more generally the entire current population of 140,000 Alaska Natives, as well employing many non-Natives.[29] ANCs serve a significant number of disadvantaged shareholders, and both policy goals of promoting competitive market entry and generating self-sufficiency among minority and disadvantaged communities can be achieved through fostering the market opportunities for ANCs. The SBA's promotion of development of small businesses, including American Indian and minority small business enterprises should remain a primary policy goal. Nevertheless, the long term advantages of competitive and profitable ANCs and other tribal businesses promise to fulfill not only business development goals for disadvantaged minority firms, but also helps fulfill the goals and intent of ANCSA as well as many agreements, policies, and legislative acts aimed at the well-being of Alaska Natives and American Indians.

In order to be competitive and enhance Alaska Native shareholder and corporate self sufficiency, ANCs must have the flexibility to hire talented staff and executive leadership, as well as have the ability to use partnerships and subcontracting tools any competitor business might use. This means that many employees and top managers will not always be Alaska Natives. Innovative executives with the social and cultural skills to navigate and serve the interests of Alaska Native corporate boards are rare and should be prized and compensated accordingly, if they are improving

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[25] "Wooch Yaayi" Woven Together, p.8; "ABMs Top 49s: Alaska's New Gold Standard for Business" Alaska Business Monthly (October 2006): 82-109; Alexandria J. McClanahan, Cindy Alfred, Jason Evans, and Michael Orr "Ch'elbuja-We Share It. 2005 Alaska Native Corporation Report; "The Trends 100 - Alaska's Largest Private Employers in 2006" Alaska Economic Trends (August 2006): 6-7.

[26] McClanahan, "Ch'elbuja-We Share It.: 6-7; GAO Report Highlights Successes & Challenges of Tribal Business Development Program. Press Release Native American Contractors Association, April 27, 2006.

[27] In the interest of full disclosure, several ANCs recently donated a total of $25,000 to UCLA School of Law for scholarships directed toward students working on Native law and policy issues.

[28] The figures presented in this paragraph are based on self-disclosures by the ten regional ANCS and two village corporations that engages in most government contracts. All figures are from the year 2005. See Native American Contractors Association website on page 3: http://www.nativeamericancontractors.org/pdf/NACA-Pkt_040607.pdf Last visited on 8/29/07.

[29] "Alaska Native Regional Corporations" Wikipedia, [http://en.wikipedia.org/wiki/Alaska—Native—Regional—Corporations]

assets, profitability and the missions of serving and upholding Alaska Native cultural, self-determination, and economic goals. Similarly, ANCs must have the capability to form partnerships and subcontracts, in order to complete jobs and make profits. Most corporations resort to similar tools to complete tasks that are not within their current organizational capabilities. Recent criticisms about non-Alaska Native CEO hired by some ANCs and the practice of partnering up to 49% of certain 8(a) contracts will constrain ANCs in ways that will make them less competitive, and therefore less able to achieve their self-sufficiency economic, political, and cultural goals. All Small Business Administration and government contractors have the right to subcontract minority portions of government contracts, and ANCs should have the same opportunities.[30]

While partnerships and non-Alaska Native managers may seem to constrain the benefits to shareholder-community members, ANCs are managed by boards and shareholders, who are elected to office to carry out the interests and values of the shareholder community. Unlike most U.S. corporations, the ANCs are understood by their shareholders as instruments of economic development, asset management, and community preservation and cultural continuity. The ANCs are more than profit-making engines, but are the economic means to support preservation of land, equity, and entree into the market economy. The ANC shareholders are in control of their corporations, and see them as protectors of their heritages, as well as the means to engage in the globalized market economy of the 21st century and future.[31] Without the capability to compete in markets, Alaska Native assets certainly would be lost, communities impoverished, and communities and cultures destroyed.

ANCs are a primary economic hope for Alaska Natives to gain self-sufficiency and economic stability that will enable their communities and cultures to flourish well into the future. ANC communities and shareholders have strong commitments to achieving their goals, and will not allow corporate managers to deter them from their goals.[32] ANC boards nowadays are filled with community leaders, many with decades of experience with the market and cultural issues facing their corporations. Many ANC boards chose the path of not delegating their corporations and assets to managers unknown to them, and decided to learn how to navigate the corporate and market world by first hand experience. This was a risky path, and profit margins were sacrificed for many years to ensure Alaska Native control and to provide time for community leadership to gain valuable first hand experience. Now many board members have decades of experience, Alaska Natives act as CEOs and corporate managers, and many ANC boards are elected with Alaska Native business persons, lawyers, and individuals with business degrees. The ANC boards are entrusted with responsibilities to ensure community assets and long term economic goals are preserved. Alaska Natives are in control of their corporations, and they see them as more than profit-making engines, but as a critical institution for ensuring the future of their cultures and communities.[33] As one report by an association of ANC Presidents and CEOs has pointed out, "Many Alaska Native Corporation leaders have become sophisticated business managers, but they all retain their respect for the cultures and many of them continue to participate in subsistence activities. Jake Adams of Barrow serves as president and CEO of Arctic Slope Regional Corporation, and he is also a whaling captain."[34]

A recent GAO report suggests that the SBA should exert greater oversight on 8(a) contracting to ANCs.[35] The report did not find any wrong doing by ANCs, but

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[30] Kimberly Palmer, "Congressmen Probe Contracts with Alaska Native Firms" Government Executive.Com, March 8, 2005 [http://www.govexec.com/dailyfed/0305/030805k1.htm].

[31] Berger, Thomas Village Journey: The Report of the Alaska Native Review Commission (New York, NY: Hill and Wang, 1985).

[32] See Gigi Berardi, Natural Resource Policy, Unforgiving Geographies, and Persistent Poverty in Alaska Native Villages, 38 Nat. Resources J. 85, 101-102 (1998).

[33]: For the importance of control over economic assets and management see: Stephen Cornell and Joseph P. Kalt "Sovereignty and Nation Building: The Development Challenge in Indian Country Today" American Indian Culture and Research Journal 22(Summer 1998): 187-214. For the role of culture in Native economic development, see Ron Trosper "Mind Sets and Economic Development on Indian Reservations" What Can Tribes Do? Strategies and Institutions in American Indian Economic Development ed. Stephen Cornell and Joseph P. Kalt (Los Angeles, CA: UCLA American Indian Studies Center, 1992), pp 303-333.

[34] Jake Adams is now retired as CEO of Arctic Slope Region Corporation. For the citation see: MALRUGNI YUULUNI: Walking In Two Worlds With One Spirit: Alaska Native Corporations Annual Economic Report Based on 2003 Financial Data (Association of ANCSA Regional Corporation Presidents/CEOs, 2005), available at http://www.chugach-ak.com/pdf/7136ANCSA2005report.pdf

[35] David E. Cooper, Alaska Native Corporations: Increased Use of Special 8(a) Provisions Calls for Tailored Oversight. Testimony Before the Committees on Government Reform and Small Business, House of Representatives (Washington, DC: U.S. GAO, 2006), pp. 2-11; Peter Homer,

rather suggests that stronger oversight be created to avoid possible future abuses.[36] Comments by the SBA were less agreeable about the report's findings, but were agreeable about possibilities of increased monitoring of non-competitive contracts and expanding competitive contracting.[37]

The SBA emphasizes that the ANC program helps fulfill Congressional intent to allocate 23% of government contracts to small businesses and five percent to minority and disadvantaged businesses. In recent years, ANCs incrementally have gained management capabilities that enable them to start competing and negotiating for government and 8(a) contracts. In 2000, ANCs were contracting about $265 million through 8(a) programs and in 2004 contracting increased to $1.1 billion. Non-competitive contracting with agencies of the U.S. government totaled $207 billion in 2006, and $145 billion in 2005.[38] In 2005, all federal contracts awarded to ANCs and American Indian tribal businesses collectively totaled $3.197 billion, which represented less than one percent (0.847%) of all government contracts.[39] Total small business procurement in 2005 totaled $65 billion or 17.2% of total government contracts. In the same year, $11 billion in government contracts were awarded to 8(a) firms, and $1.9 billion or 17.2% was awarded to ANCs and tribal businesses. ANCs received $1.5 billion in 8(a) contracts in 2005.[40] The gain to ANCs is not coming at great expense to other government contractors, especially when one considers that 8(a) contracts with ANCs benefit thousands of Alaska Native shareholders, not a single small business owner.

Conclusion

Alaska Natives ceded large parts of Alaska to the United States and possibly trillions of dollars of natural gas and oil reserves. In return, Alaska Natives retained some land and less than a billion dollars as assets to develop for-profit and non-profit regional corporations and associations. Market entry and eventual economic self-sufficiency of ANCs are primary goals of ANCSA and several subsequent Congressional amendments. ANC access to federal contracts helps fulfill Congressional mandates for government contracting aimed at providing training and market opportunities for minority and disadvantaged businesses. Alaska Native communities are in shareholder and board control of ANCs and are the primary beneficiaries of dividends, equity, and philanthropy generated by ANCs. The primary goals of ANCs are economic self-sufficiency, and community and cultural development and continuity of Alaska Native tribes and villages.[41] In recent years, ANCs have made strides toward greater participation in the market and are in a better position to take advantage of federal government contracts and 8(a) programs. Collectively ANC and tribal contracts represent less than one percent of all government contracts. While a GAO report suggests greater SBA oversight and management of contracts granted to ANCs, the report does not find any wrong doing on the part of ANCs. Alaska Native communities and leadership most likely will welcome SBA oversight and guidance as long as it fosters corporate learning and enhancement of market-based competitive capabilities and the efficient use of taxpayer funds, as is the intent of Congress. The fostering of competitive and self-sufficient ANCs is in the interests of the United States, and Alaska Native communities. Competitive and self-sufficient ANCs will help alleviate economic and social disadvantages of Alaska Native communities, increase tax revenues, and reduce the costs of government support programs to Alaska Natives. Continued support and guidance from SBA programs will incubate market competitiveness among ANCs allow Alaska Native and Congressional goals of economic self-sufficiency and greater local self-government and cultural recovery more quickly and efficiently.

"Congressional Probe of Alaska Native Corporations an Attack on Indian Country's Economic Future" Indian Country Today March 19, 2005; Jerry Mandel, "House Committees Probe Alaska Native Contracting Program" Government Executive June 21, 2006 (www.GovernmentExecutive.com).

[36] GAO, Contract Security Guards: Army's Guard Program Requires Greater Oversight and Reassessment of Acquisition Approach. Report to Congressional Requesters, April 2006, page 93.

[37] Havemann, Joel "Rise in Spending Tied to Contracts" Los Angeles Times Thursday June 28, 2007, p. A 20.

[38] "Wooch Yaayi" Woven Together, p. 10.

[39] Native American Contractor's Association (NACA) Annual Meeting 2006, Seattle, Washington. See [http://www.alutiiq.com/pdf/8a-Program-Data.pdf], last visited September 10, 2007.

[40] Native American Contractor's Association (NACA) Annual Meeting 2006, Seattle, Washington. See [http://www.alutiiq.com/pdf/8a-Program-Data.pdf], last visited September 10, 2007. Source: Eagle Eye.

[41] Charles Wilkinson, Blood Struggle: The Rise of Modern Indian Nations (New York, NY: W. W. Norton and Company, 2005), pp. 231-240.

The CHAIRMAN. The Chair recognizes the gentleman from Oklahoma, Mr. Cole, for the purposes of introducing our next panel member.

Mr. COLE. Thank you very much, Mr. Chairman. Very kind of you.

I don't know that Secretary McCaleb particularly needs an introduction to this panel as he has been here in other capacities before, but I do want to note for the record some things you may not know about him. He was very distinguished and is a very distinguished business person in Oklahoma; was elected to the Oklahoma Legislature, if I recall, in 1974, and rose to the position of the Republican Leader in the House of Representatives; was a candidate for Governor; and along the way he persuaded my mother to run for office.

[Laughter.]

Mr. COLE. And she persuaded me to be her campaign manager, and she was very successful. She was in the State House and the State Senate. So I certainly would not be here today, because politics was the last thing I had in mind, if he hadn't talked my mother into this stuff, and she didn't talk me into it, she just told me what I was going to do.

[Laughter.]

The CHAIRMAN. Did that include being a Republican.

Mr. COLE. It absolutely did.

[Laughter.]

Mr. COLE. It absolutely did, and if you knew her, you wouldn't have argued with her either.

[Laughter.]

Mr. COLE. But Mr. McCaleb is just a tremendous family friend, and more than that, he has been an extraordinarily leader for the State of Oklahoma, and certainly for the Chickasaw Nation in what he has been able to accomplish with them and working with them. It is quite remarkable. So he is somebody in Oklahoma that we are extraordinarily proud of, and I think in Indian Country, all of us are proud of and appreciate his efforts over the years.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Secretary.

STATEMENT OF NEAL McCALEB, CHAIRMAN OF THE BOARD OF DIRECTORS, CHICKASAW NATION INDUSTRIES, INC., ADA, OKLAHOMA

Mr. MCCALEB. Chairman Rahall, Ranking Member Young, and Distinguished Members of the Committee, and especially to my fellow Tribesman of the Chickasaw Nation, Congressman Cole. I am very, very pleased to have the opportunity to be here and make a few remarks this morning as a preamble to the written statement that I have submitted.

I am privileged to serve as the Chairman of the Board of the Chickasaw Nation Industries, and as the Chairman of the Chickasaw Nation Economic Development Council, and we also own a bank, Bank II. It is wholly owned by the Chickasaw Nation that I am privileged to serve on the board.

I am here this morning to talk about the Tribal SBA 8[a]s and the need to provide continuity for this program as it is operated

today and its effectiveness for tribally owned business and its impact on emerging economies in Indian Country. I will speak from my personal experience of over more than 40 years in efforts to develop self-sustaining economies in Indian Country, most of the time without a great deal of success, I am afraid.

During my service to the Oklahoma Indian Affairs Commission, the National Council on Indian Opportunity, the President's Commission on Indian Reservation Economies, as Assistant Secretary of Interior for Indian Affairs, and my current role with the Chickasaw Nation. I have had a unique opportunity to see what works and what doesn't work.

I am a civil engineer, and my early involvement beginning in 1966 and through the seventies with Tribal governments were directed to Federally funded programs, largely for infrastructure improvement. I don't want to demean it in any way, but for many years we kind of had a—the program de jour of that year for developing economies in Indian lands, related largely to infrastructure improvement, and it was intended to attract outside investment and to create jobs on Indian lands.

While these expenditures were very valuable to architects and engineers like myself that worked for Tribes on those projects, unfortunately, they were ineffective in creating sustaining economies on Indian lands, and have not resulted in significant residual employment on reservations.

I was privileged to serve on the President's Commission on Indian Reservation Economies in 1983, and the findings of the commission after a year-long investigation and visiting most reservations, or many reservations through Indian Country led us to the conclusion that there essentially was no sustaining economy or financial infrastructure in the vast majority of Indian Country.

Now, to the successes that I have observed. I have had the personal experience with the success in the Tribal 8[a] program as a board member of the Chickasaw Nation Industries, and its positive economic influence for prosperity not only for Chickasaws but also for non-Indians benefitting directly from employment and collateral economic growth. It is my considered opinion that the Tribal 8[a] program as it is operated today offers a great potential for self-sustaining economies in Indian Country, maybe the greatest potential in the long pull of any program that is advocated, principally because it doesn't have to be near population centers like gaming does. It can be in the remote, most remote areas. The Tribal 8[a] program offers not only marketing advantages necessary to stimulate sustained effort in developing marketing skills and to compete in the larger marketplace, but also the continuity, and I want to emphasize that, the continuity to encourage Tribal investment and to recruit the highly skilled managers and technicians hired for long-term success.

The profits of these successful enterprises has been eloquently said before go back to Tribal purposes, to either expand the business or they go for help or education or housing or public safety. So the profits are for the people.

The SBA 8[a] program has been said very clearly before is not a hand out, it is hand up program, and it doesn't cost a dime in extra Federal money. All the monies that go into this contracting

have already been appropriated and determined by Congress to be for good public purposes.

The written testimony that I am presenting deals with the GAO report and our recommendations for the mechanisms and how to comply with that GAO report. That is Appendix 1. Appendix 2 deals with some recommendations that we have to the SBA on how to improve their delivery of the service. We have 38 Federally recognized Tribes in Oklahoma, less than a third of those are participants in the 8[a] program, the Tribal 8[a] program right now, and we have many that are in the queue to have applications in, so that needs to be—that barrier to entry needs to be removed.

The opportunities for emergency of Tribal economies in today's environment are excellent because of two converging economic vectors. The first is technology in communication. We can be in remote locations and be competitive, and that has only happened in the last 15 years. The second is the expanded government contracting program to out-source all kinds of services, and these vectors are converging, but the pivotal ingredient necessary to make this happen for Tribes is the Tribal 8[a] program, and I hope that we won't do anything to do harm to that program as it exists, and we will focus on administratively improving its operation.

Thank you for the great privilege of being here with you today, and I will be happy to answer any questions at the appropriate time.

[The prepared statement of Mr. McCaleb follows:]

Statement of Neal McCaleb, Chairman of the Board of Directors, Chickasaw Nation Industries, Inc.

Good Morning Chairman Rahall, Ranking Member Young, and Members of the Committee, my name is Neal McCaleb and I am honored to bring you greetings on behalf of the Unconquered and Unconquerable Chickasaw Nation and to represent Chickasaw Nation Industries, Inc. at today's important hearing on Diversifying Native Economies. I am an enrolled member of the Chickasaw Nation, a federally recognized Tribe of approximately 38,000 members located in south central Oklahoma, and I serve as the Chairman of the Board of Chickasaw Nation Industries, Inc. I bring today the perspective of a career spent in private sector business, service to the great State of Oklahoma, federal service to our great Nation, and now service to the Chickasaw Nation.

I am also honored because the subjects we are discussing today are so critical to the future well being of Native peoples, their governments and economies. Indian Country and its Tribal Nations are now experiencing some of the benefits of the modern era of Self-Determination in Federal Indian Policy. While so many discussions in this modern era have focused on economic development, our focus today and for moving forward needs to be on developing economies. That is, rather than focusing on what federal, Tribal, and private sector policies and program mechanisms can provide for a single, or even a series, of good businesses, we should focus instead on the elements of those policies and programs that create an entire atmosphere in Native communities for empowering entrepreneurialism and sustaining economic opportunities. While increased opportunities for Tribal jobs are an important and valuable byproduct, the focus of the Chickasaw Nation's businesses is on the bottom line, with the ultimate goal of creating market leading companies that have their own strong capabilities, with sustainable acumen and corporate infrastructures.

Tribal Nations and the Federal Government must work together as partners to ensure that opportunities for economic success grow, and the prosperity experienced by Tribes now are not diminished. Tribal lands are not easy places to grow an economy. Not every Native Nation is well positioned. Basic elements of economic opportunity that exist outside of Indian Country often are not available to those within it. Tribes cannot tax their citizenship to create investment revenue, and lands held in trust, or that are trust restricted, cannot effectively be used to collateralize a business loan the way I could use my own home.

It is also important to recognize that successes of Native people and their governments come only after they have endured the residual effects of the eras of removal, reservation, assimilation and termination. One should also note that certain of these historic eras, and the actions taken in them, were responses to the then increasing economic strength of Tribal nations as land owners and market participants. While in the past our presence served to threaten others, today we represent an important opportunity for partnership and shared success across America, especially in rural and remote America. As Tribes work toward modern prosperity and enjoy varying degrees of economic success in our times, we remember well what happened in those eras. Working together with the federal government, the private sector and our neighbors, will ensure that the experiences of those eras never return. In that vein, our charge today is to discuss those elements that will help Native economies grow and prosper.

Over the past two decades under the leadership of Governor Bill Anoatubby, the economy of the Chickasaw Nation has experienced unprecedented levels of success in the history of the Chickasaw people. I believe, however, that every Chickasaw would agree we have much more to do in strengthening our economy. The Chickasaw Nation has built businesses, acquired firms and their expertise, and expanded its strategic alliances. These successful economic development and business diversification efforts provide a number of benefits which help the Tribe accomplish its sovereign mission to enhance the quality of life of Chickasaw people. Governor Anoatubby has often stated, "A nation cannot be truly sovereign until it is economically independent."

Creating a robust Chickasaw economy is part of the Chickasaw Nation's overall plan to promote a better way of life. Chickasaw Nation business interests include Chickasaw Nation Division of Commerce; Chickasaw Nation Industries, Inc.; Solara Healthcare; and, Bank2, a full service bank. Chickasaw Nation Division of Commerce employs 6,488 workers and operates more than 57 businesses including motels, restaurants, travel plazas, gaming centers, recreation centers, convenience stores, two commercial radio stations, a golf course, a newspaper, and a chocolate factory. Chickasaw Nation Division of Commerce operates its business enterprises largely within the historical boundaries of the Chickasaw Nation in south central Oklahoma. Its successful gaming enterprises and business operations have enabled the Chickasaw Nation to invest in a number of new businesses. Investment in Solara Healthcare, which operates health care facilities in Oklahoma, Texas and Louisiana, is an example of business diversification efforts aimed at providing the best opportunity for stable long-term returns. Successful gaming enterprises have also enabled the Chickasaw Nation to develop other business interests, including Bank2, which has enjoyed rapid expansion and consistent profits since it was established in 2001.

Chickasaw Nation Industries, Inc. is a family of companies that provides a variety of products and services that include professional services, construction management, manufacturing, property management, information and communications technologies, aviation technology services, records management, environmental, logistics, and medical and dental staffing. Currently, Chickasaw Nation Industries, or CNI, manages business enterprises that collectively employ more than 2,200 people, providing services to a wide variety of government entities in over twenty five federal agencies and a number of private firms. Currently, CNI is made up of twelve different companies that include seven federally designated Small Business Administration Tribal 8(a) companies and five non-8(a) or graduated 8(a) companies all working under the CNI umbrella.

CNI was created in 1996 by a vote of the Chickasaw people. We are a federally chartered corporation with our charter granted to us by the Department of Interior. Our Board of Directors is appointed by the Governor and confirmed by our Legislators to serve a three year term and may be reappointed. All of our board members are Chickasaw. The long-term strategy of CNI is to continue to grow our market share in the federal and private sectors by delivering exceptional products and services at competitive prices. With the mission of creating commercial strength in new geographic and subject matter markets, CNI has offices located in Ada, OK; Albuquerque, NM; Atlanta, GA; Chicago, IL; Huntsville, AL; Marietta, OK; Norman, OK; Oklahoma City, OK; Purcell, OK; Ridgeland, MS; San Antonio, TX; Cape Canaveral, FL; and Washington DC.

Business entities of both Chickasaw Nation Division of Commerce and Chickasaw Nation Industries have received national and state wide awards and acclaim, however, perhaps the most important benefit of economic development is providing more opportunities for individual Chickasaws to succeed. Because the Tribe is focused on increasing the number and quality of opportunities available, its success is measured by the number of people who seize those opportunities. By that measure, tribal

economic development has been very successful, as the Chickasaw Nation now employs more than 10,400 workers.

Another measure of success is the ultimate use of business revenues, which directly enable the Tribe to develop programs in addition to those supported by federal government programs, and to supplement federal funding of federal services that have seen steady reduction in several past budgets. Recently implemented health, education, housing and aging services developed for Chickasaws living beyond the tribal service area are one example of these augmented services. Funding specifically for our youth workers is another. Other examples include our elders' prescription program and our medication assistance program. The Chickasaw Nation also operates several Community Centers and Wellness Centers and will soon open one of the first Sick Child Care Centers in the State of Oklahoma.

Because it is so important to the vitality of a Tribal nation to support its people through the profits of its economic efforts, allow me to highlight some of the ways in which the Chickasaw Nation utilizes its business revenues at home. Last year alone the Tribe awarded $3.1 million in grants and scholarships to 4,273 students pursuing a higher education. This is nearly three times the amount of total Tribal assets in 1988 when Governor Anoatubby took office, before gaming became a significant source of income and before the Tribe stimulated its diversification efforts.

In the areas of healthcare and wellness, according to 2006 records, the Chickasaw Nation Health System had more than 336,000 patient visits at the Carl Albert Indian Health Facility in Ada, the seat of Chickasaw Government, and the five health clinics located throughout the 13-county area of the Chickasaw Nation. Last year, more than 800,000 prescriptions were filled through six pharmacy sites. The Chickasaw Nation operates two wellness centers, and has a third center currently under construction. Through an interactive cooking show called the "Get Fresh!" program, the Chickasaw Nation Health System offers free demonstrations and healthy and nutritious cooking to everyone in the community. Nutrition sites and food distribution grocery stores ensure adequate access for all citizens in need of healthy food options. The Chickasaw Nation also operates partnerships with other programs such as the Oklahoma University Medical Center, Oklahoma Blood Institute, Juvenile Diabetes research Foundation, Dean McGee Eye Institute, Oklahoma State Health Department, and the National Diabetes Education Program.

Several efforts are made to care for our elders. Healthy, nutritious lunches are provided free of charge for those 60 and over at 10 senior nutrition centers throughout the Chickasaw Nation. An eleventh location is also currently under construction. Health screenings, home health care services, transportation to medical appointments, home maintenance, an over-the-counter medication program and wellness education are also available to seniors. Continuing education opportunities are available through language and computer classes provided at all senior nutrition center locations. This exposure to technology has opened doors for seniors to learn new computer programs and hundreds have received free computers through the Tribe's computer distribution program.

The Tribe is also dedicated to its youth. More than 650 Native American youth, aged 14-21, participated in the Chickasaw Nation Summer Youth program, which is aimed at recognizing, identifying, and promoting the talents of young workers. The program offers paid employment in many fields for various employers. The Chickasaw Nation is devoted to year-long learning and 15 camps, offered free of charge to Chickasaw youth, keep the children's skills sharp. Whether participating in our premier sports camps like basketball and baseball, our paramount trade camps like arts, aviation and space, or our entrepreneur academies, youth have the opportunity to perfect a skill or just learn something new. Nearly 900 students participated in the camps last year.

In ensuring the vitality of our families, the Chickasaw Nation knows that children raised in strong families are much more likely to be happy, healthy and successful. In its second year, the Governor's Family Initiative offers several methods to help families grow stronger, including relationship enhancement programs, fatherhood accountability groups, abstinence education, and single parent support groups. 7,000 area residents and employees have participated in the classes. Our nationally recognized child support services program has collected more than $5.1 million dollars to ensure the financial stability of our families. The office also administers the tribal employment placement program that assists and monitors the progress of non-custodial parents in obtaining and maintaining employment. In support of continuing education, last year, numerous grants and scholarships were awarded totaling more than one half of a million dollars toward continuing education.

The Chickasaw Child Care Development program provided child care services to 587 children ages six weeks through 6th grade, focusing on physical, intellectual, emotional and social development. Chickasaw Nation Child Care incorporates pro-

grams like the Reading is Fundamental program where more than 750 books were distributed to 256 Head Start students. In addition, computer-driven SmartBoards were installed in several of our Head Start classrooms, to provide first-hand innovative technology to pre-school children. In addition, a newly added program providing $200 yearly clothing grants ensure that all school age children from 3-18 are dressed for success. 5,500 students participated in the program this past year.

In the area of housing, the Tribe's Division of Housing provides a variety of programs and services to assist families including home ownership, homeowner education, rental assistance, storm shelter installation and driveway repair. Since the program began in 2003, nearly 900 storm shelters have been installed for Chickasaw families. The innovative and national award winning "Chuka Chukmasi" program has assisted nearly 500 families in more than a dozen states by providing low down payment and flexible home loans to Chickasaw citizens and Chickasaw Nation employees. Since the Tribe assumed control of housing programs in 1997, more than 440 new homes have been constructed for Native American families, compared to far fewer prior to 1997.

The Tribe is also working to multiply these opportunities by striving to work with individual Chickasaw business owners in a number of ways. A directory of tribal businesses was created, giving individual Chickasaw business owners the opportunity to become preferred providers for tribal businesses. Chickasaws considering starting a business now have access to a number of important resources through the Chickasaw Nation Small Business Development Center (CNSBDC), which offers a number of services to aspiring entrepreneurs. These include help in developing a business plan, management counseling, marketing assistance, technical assistance and assistance in locating financing. Every individual who comes to the center receives individual attention, but that process goes beyond assistance in developing a business plan and completing loan applications. Staff at the center also discuss the advantages of the different types of businesses and provide direction in registering the business with the state. There are a number of grants, loans and loan guarantees available through the CNSBDC and other entities. For that reason, the CNSBDC works with a number of other government entities and financial institutions to make the best use of all available resources.

These diverse business interests will enable the Chickasaw Nation to continue to provide a level of service that not only benefits Chickasaw citizens, but has a significant positive impact on the greater community. Dozens of businesses created by the Chickasaw Nation have a powerful impact on Oklahoma's economy. Thousands of Oklahomans, both Indian and non-Indian are directly employed by the Chickasaw Nation. These jobs and businesses not only increase the Oklahoma tax base, they also provide additional funding for the many programs and services provided by the Tribe. At the current annual payroll of almost $200 million in Oklahoma, it is estimated those employees pay more than $7.5 million in Oklahoma withholding taxes. The nation-wide operations of Chickasaw Nation Industries and Solara Healthcare provide similar benefits to those states.

Chickasaws and many other Oklahomans receive higher quality health care, education, housing and family services because of efficient, effective local administration of federal programs. Programs such as the Women, Infants and Children (WIC) nutrition program, Head Start early childhood education program and others serve all Oklahomans, enhancing the level of education, health care, family and nutrition services for the entire state. In FY 2005, the Tribe donated more than $1.5 million to fire departments, schools, churches, civic, and charitable organizations. In addition, millions of dollars are invested in Oklahoma roads and bridges through tribal nations. The Chickasaw Nation Roads program joined efforts with various counties throughout the year to complete many projects. Examples of this partnership include replacement of a dilapidated bridge and road repairs in many counties. Thus, the Chickasaw Nation and its economic enterprises are committed to being a good neighbor.

With these experiences, and our commitment to our sole owner, the Chickasaw people, I now wish to address recommendations to you on behalf of Chickasaw Nation Industries that will enhance the ability of Tribal Nations to diversify sustainable economies.

To set the context of our first set of recommendations, I wish to provide our prospective on the importance of the Tribal 8(a) program. CNI is created as a federal government contracting entity to utilize the Tribal 8(a) program of the Small Business Administration (SBA) as its primary tool of economic diversification. The Tribal 8(a) program is one of the best examples of enlightened legislation in the history of federal tribal policy. It recognizes the right to act and grow as entrepreneurs, without sacrificing or limiting the Native government's authority to exercise their sovereign powers in fulfilling their responsibility to care for their people. Some enti-

ties outside the program claim that it is federal charity. We know that it is economic self-determination. We know that it is based on the sound premise that the federal dollar returns two fold—it buys a quality product or service on time at a good price—and it circulates in Native communities to help sustain Native economies.

It is important to recognize that while this legislation gave our businesses significant contracting rights, it did not simultaneously confer instant capabilities. As we have demonstrated, we are committed to creating our own capabilities. We also know that with our rights come responsibilities. Native communities have assumed greater responsibilities to protect the integrity of the program by creating effective means of entering the marketplace and by creating strong internal corporate infrastructures, controls, and capabilities.

At CNI, we have also assumed an unprecedented responsibility to others through our Native American Minority Empowerment Program (NAMEP) to engage in team relationships that share concepts and business strategies and to coordinate the communication of those concepts to federal partners, with Congress, and the non-Native, minority, and small business worlds. The NAMEP program is our own diversity program, and its most important mission is to respectfully encourage and assist other small and developing business entities as teammates and subcontractors by sharing economic opportunities, experiences and hard lessons learned. NAMEP is a business development and empowerment program, not philanthropy, and includes engaging teaming opportunities with Tribal and Native-owned businesses, African-American, Hispanic, Women-owned, Veteran-owned businesses and minority individuals.

Thus, over the past several months CNI has engaged with a number of other Native business entities and national Tribal policy organizations to address the concerns that have been raised on Capitol Hill and elsewhere about the participation of Native entities in the 8(a) program. While these issues and recommendations are highlighted here, they are also discussed in further depth in the appendices to this testimony.

Appendix 1 includes a series of three CNI whitepapers shared with other Native contracting entities in the ad hoc working group convened by the National Congress of American Indians, Native American Contractor's Association, and the National Center for American Indian Enterprise Development, focusing on 8(a) issues over the past year and a half. CNI was invited by the SBA and Native entities to take part in these discussions and share its policy recommendations from our own experiences in that forum. This working group has also endeavored to address the concerns expressed in the April 2006 Government Accountability Office (GAO) Report entitled "Contract Management; Increased Use of Alaska Native Corporation's Special 8(a) Provisions Calls for Increased Oversight." (GAO-06-399). While the 2006 GAO report focused solely on certain Alaska Native Corporations, which are different in legal composition from Tribally-owned businesses, the implications of the report concern the same provisions in the 8(a) program which cover Tribal 8(a) businesses. As a Tribal 8(a) entity, CNI has advocated in this forum, with virtually unanimous agreement from its peers, that there be recommendations shared with the SBA for policy changes in the areas of subcontracting, mentor-protégé arrangements, and reporting—all with the goal of strengthening and honoring the goals of the 8(a) program.

Regarding subcontracting requirements, it is important to note that the 8(a) business entities of Native Hawaiian Organizations (NHOs), Alaska Native Corporations (ANCs) and Tribes, collectively referred to here as Native Concerns, are significantly different from traditional small businesses. Tribal business entities exist for the economic development of their Tribal governments, as opposed to individual small business owners, who operate for individual wealth. NHOs exist for the benefit of their members, and ANC business entities exist for the benefit of their shareholders. In spite of the importance of the success of Native Concerns to the public, it is also important to assure traditional small businesses that their access to procurement opportunities is not negatively impacted by the special provisions applicable to Native Concerns.

The resulting recommendation embodied in Appendix 1 involves a new requirement that Native 8(a) business entities receiving a sole-source contract in excess of Twenty Million Dollars ($20,000,000) over the life of the contract, including option years, would be required to submit and negotiate a subcontracting plan that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran owned small business, HUBZone small business concerns, small disadvantaged business, and women-owned small business concerns. CNI believes that an appropriate response to the issue raised by traditional small businesses—that the lack of a cap on Native Concerns negatively impacts their contracting opportunities—is to exclude Native Concerns from the small business ex-

emption in circumstances where the sole-source contract is of a size normally only available to other than small businesses.

It is important to note that while CNI's original recommendation reflected in Appendix 1 was at a $10 million requirement level, the collective working group agreed that a $20 million requirement level would be more appropriate for those Native business entities that may not have as much experience in the program or with developing subcontracting and teaming relationships, while simultaneously charged with developing their own capabilities and corporate infrastructures. While Native Concerns acting on behalf of hundreds of thousands of Tribal members have only just begun to penetrate a previously unreachable federal marketplace, this proposal will effectively respond to these perceived issues, while balancing the interests of all of SBA's constituents.

Regarding the role of Native Concerns in mentor-protégé arrangements, CNI recommends an approach that recognizes the SBA Mentor-Protégé program is designed to encourage large business Mentors to provide various forms of assistance to small businesses. These include the provision of technical assistance, management assistance, financial assistance in the form of equity investments and loans, subcontracts awarded to the Protégé by the Mentor, or assistance in performing prime contracts with the Government in the form of joint venture arrangements. Whether the Protégé is a traditional small business or an Alaska Native Corporation, a Tribally owned entity, or a Native Hawaiian Organization, the goal of the Mentor-Protégé program is to enhance the capabilities of the Protégé and to improve their ability to successfully compete for and perform government contracts.

Past experience, however, shows that Mentors (especially very large Mentors) approach traditional small businesses differently than they approach Native Concerns. This difference is due to the ability of Native Concerns to obtain larger contracts. Consequently, some Mentor firms primarily seek a relationship with Native Concerns contemplating the ability of participating in and performing large sole source contracting opportunities. This creates an environment wherein the Protégé is at risk to be a mere vehicle for the Mentor to obtain a contract that it would not otherwise have been entitled to receive. Without Protégé performance requirements under the program, the Mentor is not motivated to grow the Protégé's participation, and therefore not motivated to provide mentoring assistance.

In response to these concerns, CNI recommends that a Protégé in a Joint Venture should be required to increase their level of performance annually over the term of the contract, including option years. Thus, at each anniversary of the contract, the Protégé would be required to increase its performance in increments of 10%, until the Protégé's percentage of work is no less than 60%. This proposal would meet the objectives of ensuring that sole source contracts awarded to 8(a) Mentor-Protégé joint ventures are not abused as mere pass-through contracts for large businesses. And by limiting the required percentage of work to be performed by the Protégé, the Mentor firms will still see incentives to participate in the program.

The final policy recommendation embodied in Appendix 1 involves reporting by Native Concerns. The 2006 GAO Report asserted that SBA is not providing adequate oversight to assure that Alaska Native Corporation Protégés and other firms are performing an appropriate amount of work, are overly subcontracting work, and not tracking contract modifications, change orders, and changes in scope. The report indicates that failure in oversight of the SBA is in part due to a lack of information from government agencies, and that the agencies didn't provide the appropriate information despite Memorandums of Understanding between the SBA and the agencies, and due to the fact that some data are simply not tracked at this time.

CNI's recommendation is that Native Concerns should be required to supply reports to the SBA to demonstrate compliance with the spirit and letter of the 8(a) program. This would ensure that Native Concerns are performing at the appropriate level or making progress to the appropriate level, thus benefiting the 8(a) participant as the Program intended. Annual reports provided pursuant to existing regulatory requirement regarding the level of attainment of the Mentor-Protégé program performance and direct award contracts, and semi-annual reports to SBA upon modifications, change orders, and changes in scope, would achieve this and demonstrate compliance.

In addition to the above recommendations pertaining to broader 8(a) policy issues addressed in national forums and Native working groups, I also wish to highlight recommendations CNI recently addressed directly to the SBA pertaining to current operations of our own businesses and our specific experiences under the agency's administration of the program. These involve issues that we have experienced to be inconsistently administered with the SBA from office to office or, in some instances, within the same office. We believe the inconsistency arises primarily from a lack of clear standard operating procedures or a lack of defined rules, leaving personnel

with apparent discretion, hazarding arbitrary actions. Without stated rules, standard operating procedures, or a willingness to follow established SOPs, it becomes more difficult for a Tribal participant to operate within the program.

It is important to note at the outset of these concerns that earlier this month CNI's General Counsel met with the SBA's General Counsel on these matters and significant agreement was had upon the perspectives and positions of CNI. CNI is encouraged by the receptivity and agreeable, solution-oriented approach of the SBA General Counsel and offers these only to be illustrative of issues and reveal a need to give SBA personnel clarity and direction as they attempt to oversee and administer this important program.

Attached as Appendix 2 is a memorandum addressed to Mr. Bill Largent, the National Director of SBA's Office of Native American Affairs, that outlines specific actions of the SBA that amount to barriers to entry and growth in four areas. These include significant delays in actions regarding the approval of change of managers, an unnecessarily repeated requirements of proof of Tribal status as "economically disadvantaged," reluctance or onerous requirements for approval of secondary North American Industry Classification System (NAICS) codes requested for the diversification of our 8(a) business entities, and a specious requirement not contemplated by the 8(a) certification application rules requesting submission of tax returns by all directors and the Chief Executive Officer (CEO) of the Tribally owned holding entity, CNI, which owns the applicant company.

With respect to the economically disadvantaged status of the Tribe, in CNI's last three applications for 8(a) certification, we have been required to provide the Chickasaw Nation's financial statements. Upon inquiry, we were informed that SBA had a right to look at them "to determine if the tribe needed the 8(a) program." As a Tribe that recognizes the potentially limited nature of gaming as its future principal source of revenue, the Chickasaw Nation has aggressively pursued business development outside of gaming. The 8(a) program has proven a very effective diversification tool, as stated above. It is unsettling to think that gaming revenue, the very activity the Tribe is trying to replace, could cause the loss of a valuable economic development tool in that effort. Tribal economies should not be punished for their own successes. Markets vary and conditions change. Lasting corporate capabilities created through the 8(a) program will ensure a sustainable economy.

Regarding the approval of change of managers, we have experienced significant delays in the approval of managers named to replace departed managers of participant concerns. With respect to the need for secondary NAICS codes, only some but not all SBA regional offices are supportive of the participant's business development opportunities and recognize that products and services offered by a business may change during its life in the program due to market forces, strategic decisions, or economic conditions. In recent applications filed by companies wholly owned by CNI, the SBA has required that the last three years tax returns of the Directors of CNI and the CEO of CNI be submitted, along with proof of payment of taxes. Historically, only the manager of the LLC applicant was required to submit returns. This requirement is burdensome, time consuming, and for no apparent purpose.

Again, CNI is encouraged by its recent interaction with SBA on these issues. As these concerns relate directly to the ability of our businesses to continue their development and diversification through the use of the program, we look forward to continued coordination with SBA and ultimate solutions on these matters. CNI is committed to working directly with the SBA to ensure that the goals and prerogatives of the 8(a) program receive compliance and are honored.

In addition to providing perspectives and recommendations on the important 8(a) program, I want to highlight another important piece of proposed legislation that would support the diversification efforts of Tribes.

H.R. 1954 was introduced earlier this year in this Committee and is designed to allow Tribal governments to transfer the credit for electricity produced from renewable resources to their development partners. This ability would seize upon the significant developments in Public Law 109-58, the 2005 Energy Policy Act, and especially Title V of that act, entitled Indian Energy. The 2005 Energy Policy Act shifted the paradigm of Indian energy from that of royalties to ownership and operation. Currently, because of the tax exempt status of Tribal governments, if a Tribal entity seeks to enter into an outside partnership on any renewable energy project occurring on Tribal lands the effort cannot benefit from the production tax credit for renewable resources as a private landowner would. The Tribe also cannot transfer its portion of the credit to its taxable partners. A disincentive to locate such projects on Tribal lands thereby results, as a non-Tribal partner may receive half of the credit it would receive if locating on private lands.

H.R. 1954 would simply amend the Internal Revenue Code of 1986 to allow Tribal governments and their subdivisions to transfer their share of the production tax

credit to their taxable partners in joint venture, renewable energy projects on tribal lands. This would be a significant opportunity for Tribal economic enterprise, and the sharing of knowledge and strategic growth between Tribal and private sector entities. While the Chickasaw Nation is not a significant energy resource Tribe, it does have significant corporate capabilities that could bring strategic value to many parts of the chain of operations and services required for successful renewable energy projects. Like so many other Tribes and Tribal businesses nationwide, CNI has considered many renewable energy projects that have varying degrees of potential success, but all share one common challenge: funding. The ability to transfer tax credits could significantly increase the value proposition for many of these opportunities for Tribes on a national scale. As concerns for the environment and the need for fossil fuel alternatives mount, the importance of such renewable energy projects continues to increase nationwide. Congress and this Committee should recognize that Indian Energy can play a prominent role in this process, and that passage of H.R. 1954 would also support the continued diversification of Tribal economies.

In closing, Chairman Rahall, Ranking Member Young and Members of the Committee, I want to reiterate that as this Committee moves forward to further strengthen opportunities for economic development in Indian County and stimulate the diversification of Tribal economies, it should focus on the programs and conditions that create an entire environment of entrepreneurialism and opportunity in Native communities, rather than simply what elements can make a single success or provide for a particular motivation. While Tribal jobs and increased opportunity for advancement are valuable and important goals, and indeed exist among the core missions of Tribes, they should be viewed as a beneficial byproduct of healthy commerce and part of a overall sustainable Tribal economic system. Certain federal programs, such as the 8(a) program, are stalwart programs in this effort, assisting Tribal businesses in achieving actual capabilities and contract performance experience. This program must be honored and refined.

As the Chickasaw Nation continues to work towards an ever more robust economy it is motivated by the need to move forward on several different fronts at once. Caring for its citizens, providing a future for its youth, working with the small businesses of its people and those of similarly disadvantage communities, and endeavoring to ensure that national policies keep its important capabilities and opportunities strong and viable—these will continue to be the motivations of the Chickasaw Nation.

Thank you.

[NOTE: Attachments to Mr. McCaleb's statement have been retained in the Committee's official files.]

The CHAIRMAN. Thank you. Mr. Taylor.

STATEMENT OF JONATHAN TAYLOR, RESEARCH ASSOCIATE, THE HARVARD PROJECT ON AMERICAN INDIAN ECONOMIC DEVELOPMENT, HARVARD UNIVERSITY; AND SENIOR POLICY ASSOCIATE, NATIVE NATIONS INSTITUTE, UNIVERSITY OF ARIZONA

Mr. TAYLOR. Thank you, Mr. Chairman and Ranking Member Young. It is my privilege to speak to you today about diversifying American Indian economies and Alaska Native economies.

As you mentioned in the introduction, I wear several different hats, and your staff has asked me to appear here to deliver testimony as an economic researcher working for the Native American Contractors Association, and also as a researcher with The Harvard Project on American Indian Economic Development, and with the Native Nations Institute. Those are two distinct roles, and I need to keep them distinct, and I have submitted to separate pieces of testimony.

One thing I cannot do is try and squeeze both of those into five minutes. I am not an auctioneer and I cannot talk as fast as an auctioneer. So let me begin, and if we run out of time, we will go to questions about either piece of testimony.

I think it is important to recognize that the outset that there are distinguishing features of Tribal and 8[a] companies that distinguish them from the other 8[a] companies.

First of all, their ownership structure is unique. They are owned by whole communities. All Alaska Natives of a certain age in 1971 participate in Alaska Native Corporations and Tribal enterprises. In order to qualify for the exemptions under the 8[a] program, they have to be owned by the Tribe. It cannot be owned by an individual entrepreneur in the Tribe.

These entities, the ANCs and the Tribal corporations face unique social and structural burdens. First, the social burdens.

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In Figure 3 of my report, which you can find on page 11, I give you the Census data that you are familiar with showing that Native Americans as a group in the U.S. Census are the poorest identifiable group, and that the poverty rates that Native Americans experience are twice the U.S. average, on the reservation they are more than three times the U.S., and in Alaska they are twice the Alaska State poverty rate.

These enterprises also face unique structural burdens. The corporate governance of tribally owned enterprises is complicated. We all know that corporate governance is complicated, just as the shareholders of Enron or the people coping with Sarbanes-Oxley. It is even more complicated when a government owns the business. And the arrangement under the Alaska Claims Settlement Act is a shareholder arrangement, but it is not exactly the same as the corporate governance of publicly traded or even privately held shareholder corporations.

There are structural impediments to performance in those companies as well, and Congress has seen fit to make corresponding exemptions, exemptions from the affiliation and from the sole source requirements because of these unique social burdens and structural burdens.

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We have talked a lot about the size of this program. The $1.9 billion in Tribal and ANC 8[a] contracting is a half a percent of all procurement. It is 1.3 percent of all sole source contracting. It is 2.9 percent of all small business contracting, and it is 17 percent of all Section 8[a] contracting.

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We have also heard a lot about the trend, and here we have all American Indian and Alaska Native contracts, that is, 8[a] and non-8[a] contracts to all Native entities over the Fiscal Years 2000 to 2005, and you can see this expansion that the GAO witness talked about. Notice though that the proportions of business available for competition and not available for competition have not changed.

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Those dollars, all of them together, all of those different colors represented as a red region on this graph are a small fraction of the total. Procurement generally has been growing rapidly.

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And when we put 8[a] contracting in context with all small business, woman-owned business, small disadvantaged business, dis-

abled veteran, and all [a] business, we can see that it is a relatively small piece of the pie.

Now, let me stop here and say there is one thing that is not on this graph, and that is the gap between what I understand to be the legally required amount of small business procurement, that is, 23 percent of the total $378 billion, that would imply that this small business bar should be an additional $21.8 billion higher. If my understanding is right, that is 34 percent more procurement should be going to small business than already does. There, it seems to me, is the opportunity for greater small business development.

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Regionally, the 8[a] business concentrates—excuse me—all Native procurement concentrates in Alaska, it also concentrates in Virginia and Maryland as you would expect, but it also concentrates in states like Oklahoma, New Mexico, and Washington where there are large numbers of Tribes and large number of Indians proportionally.

Sarah Lukin has done a very eloquent job of demonstrating what this means to Native communities. This is evidence of irreversible change in Indian Country, and I won't belabor the point because she has made it so eloquently, but this happens many times over, thousands upon thousands of Indians are owners as shareholders or owners as citizens of Tribes, millions of dollars go to payroll, to shareholder distributions, to social and cultural and economic investment.

I would conclude my remarks with a quick observation that this program is exemplary in my mind in traveling around Indian Country for the way it rapidly defuses the techniques and the professional skills of running businesses.

So Mr. DuMontier, when they were getting going, it learned a great deal from Arctic Slope Regional Corporation. He went on to teach corporations in North Dakota how he had been successful, and that is in my mind exemplary for Federal programs. There is a long litany of Federal programs that have not worked.

Thank you. I will entertain any more questions.

[The prepared statement of Mr. Taylor follows:]

Statement of Jonathan B. Taylor, Research Associate, Harvard Project on American Indian Economic Development, Harvard University, and Senior Policy Associate, Native Nations Institute, University of Arizona

Thank you, Chairman Rahall and Ranking Member Young, for the invitation to appear before you. My name is Jonathan Taylor and I am a Research Associate of The Harvard Project on American Indian Economic Development and a Senior Policy Associate with the Native Nations Institute for Leadership, Management and Policy, part of the Morris K. Udall Center for Studies in Public Policy at the University of Arizona.

The Challenge

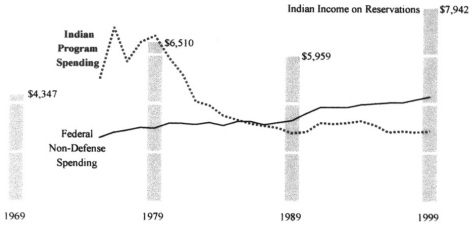
As you are aware, American Indian and Alaska Native economic fortunes have lagged substantially behind those of other Americans. On reservations and in remote rural Alaska, especially, unemployment is high, poverty is high and incomes are low. Declining federal funding, remote markets, challenges attracting educated members, barriers to capital investment, and a host of other problems frustrate Native economic growth.

Nonetheless, bright spots are visible in and around Indian Country. There are places where natural resource companies support education programs. There are places where tourism attracts customers to on- and off-reservation businesses. There

are places where tribes manage, regulate, and adjudicate commerce on-reservation better than other governments do. Such was the case before the advent of widespread casino development at the Colorado River Indian Tribes' Farms, at White Mountain Apache's Sunrise Ski Resort, at NANA's Red Dog Mine, and at Mississippi Choctaw's Chahta Enterprise. Such has also been the case after casinos gave tribes additional sources of funds and lowered their costs of capital.

By tribal design, these economic endeavors aim to loose the bonds of federal spending on reservation economies. In the 1970s federal Indian spending rose with the Great Society and other programs, and in the 1980s it fell with the Reagan budget cuts (dotted red line in Error! Reference source not found.). At the time, much of reservation economic life depended upon federal grants and contracts, and in synch, Indian incomes rose by 49% in the 1970s, but then dropped by 8% as federal funds retreated in the 1980s (shaded bars in Error! Reference source not found.). In the 1990s, by contrast, federal Indian spending stagnated and fell behind U.S. spending per capita (solid line in Error! Reference source not found.), yet Indian incomes grew by a third—three times faster than the U.S. income growth rate. Interestingly, Indian incomes grew on reservations that did and did not witness the development of casino gambling.

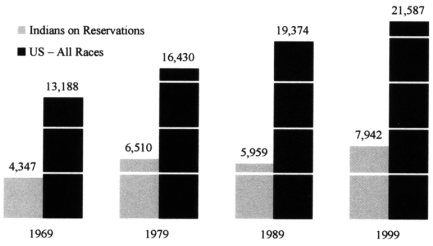
Figure 1
Federal Expenditure Per Capita and Indian Reservation Income
thousands of 1999 dollars per capita



(Walke, 2000; Taylor & Kalt, 2005)

As welcome as these gains were for Indian Country, Indians on reservations still faced a very large income gap. The gray bars of Error! Reference source not found. juxtaposed in Error! Reference source not found. against U.S. averages show Indian incomes barely reached past one-third the national average in 1999. Even at the hopeful pace of growth witnessed in the 1990s, it would take fifty-five years for the gap to close, and sustaining that relatively rapid rate of growth for the next half century will be a challenge.

Figure 2
Indian Reservation and National Income
thousands of 1999 dollars per capita

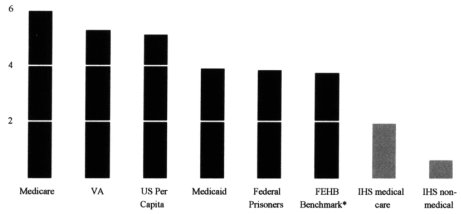


[taylor kalt 2005]

Indians confront these income gaps with weak federal support. Notwithstanding federal treaty obligations and trust responsibilities to advance tribal well-being, the U.S. Commission on Civil Rights finds federal funding to be inadequate and below what is available to non-Indians.[1] The Commission examines a range of domains of Indian life including education, crime, and health, among other things, and finds funding gaps across the range. A particularly stark comparison of health care ex-

penditures is reproduced in Figure 1 and shows Indian Health Service medical funding to be about half of what federal prisoners receive. Given that in Indian Country many social and economic problems have accumulated over time and reinforced each other, one might reasonably expect that reaching social and economic parity with the rest of the U.S. would require greater than average federal funding, not less.

Figure 3
Health Care Spending: Indian vs. Other US
thousands of FY03 dollars per person



(US Commission on Civil Rights, 2003, Figure 3.2)

Thus, the steep challenge ahead for reservation economies entails accelerating the pace of growth so that the income gap closes in fewer than fifty-five years, all while contending with lower-than-average federal support. The task will require spreading the nascent economic success in Indian Country across industries and across geography. To drive growth, Native economies have relied upon natural resource endowments, upon powers of regulation and taxation, and recently, upon procurement advantages. There is still some room for growth under each of these strategies, but in many reservations, there is not enough to accommodate the number of high-school age workers entering the work force each year. Further growth will have to come from competing head-to-head in value-adding industries and from freeing private sector initiative, especially on large reservations. Success will need to spread geographically, too. Just as mineral resource wealth is concentrated at Crow or in the NANA region of Alaska, so too is success in gaming, gasoline retailing, and cigarette manufacturing concentrated at Ft. McDowell, Winnebago, and Seneca. Economic growth needs to spread over the map as well as through industry sectors.

So how do we deepen and extend the economic success that has been achieved? My colleagues and I at the Harvard Project on American Indian Economic Development and the Native Nations Institute have been learning from Indian Country that there are three essential keys that distinguish tribes in takeoff from tribes that struggle with economic development. First, successful tribes assert, defend, and use their sovereignty. If tribes make the key decisions about development, those decisions tend to better reflect local conditions, preferences, and opportunities; consequently, those decisions yield better tangible results. Second, successful tribes have strong institutions that: a) resolve disputes fairly; b) manage the boundary between business and politics effectively, and c) administer the day-to-day life of the tribal government efficiently. Without working institutions, economic development can only last a cycle or two of investment, at which point the costs of doing business on the reservation exceed the value and capital flees elsewhere. Third, these institutions of governance must match local norms of what is and is not appropriate government. Without a match between indigenous culture and institutions, the life of government becomes riven with questions of legitimacy and progress halts. Successful Indian nations have in common that they turned away from federally sanctioned, project-based, and grant-funded approaches and instead built governing systems that foster development. I will not belabor the full spectrum of these points because my colleagues have covered them in detail before Congress.[2] Instead, I want to narrow the focus to one issue in particular: managing the boundary between business and politics.

Managing Business & Politics[1]

Imagine the government owns a business that provides politically popular services that don't make money. Or imagine the government owns a business where a power-

[1] This section draws heavily from work that Kenneth Grant and I wrote in (Grant & Taylor, 2007).

ful constituency uses the levers of political representation to strengthen its hand against management in a labor dispute. Or imagine the government owns a business that makes money, but a dispute erupts about whether the profits should be reinvested in the business, used to subsidize popular services, turned over to the government treasury, or issued as dividends to citizens. Such questions pitting corporate success against community values are not idle speculation to the owners and managers of AMTRAK, I'm sure. Likewise, these questions feature prominently in the daily lives of myriad tribally owned corporations. Worse, the political bouts that arise from these questions degrade corporate performance if they are not properly addressed.[3]

Why not privatize? Countries around the world are driving down the government-owned proportion of GDP to around 5%. When they do so, they reap higher profits, lower prices, better service, and better returns on investment. As appealing as these gains might be, tribal governments nonetheless cannot nor, in many instances, should not privatize their tribal enterprises. U.S. tax, procurement, and regulatory policy encourage and even mandate tribal ownership of enterprise. Section 17 of the Indian Reorganization Act of 1934 encourages economic development via federal charters for nation-owned enterprises.[4] IRS rules shield nation-owned enterprise profits from federal corporate income tax.[5] Section 8(a) of the Small Business Act offers advantages to tribally owned corporations.[6] The Indian Gaming Regulatory Act mandates tribal ownership in all but the rarest cases.[7]

Even in the absence of these federal inducements and requirements, government ownership of enterprises would be a sound choice for Native nations to make. Tribal enterprises often depend upon an Indian nation's patrimony—a forest, lake, river, or plain—whose development must take place within tribal cultural and environmental constraints. Private development of such resources often fails utterly, if only because of the outcry against inappropriate development institutions. In addition, trust land title, Native concerns about property alienation, geographic isolation, relative economies of scale, and a host of other market idiosyncrasies may favor tribal over individual ownership. And finally, it is often the case that the economic unit is and ought to be the whole community. This is particularly evident in shareholder tribes such as under the Osage headright system (or analogously the Alaska Native corporations), but it can also hold true for whole tribes owning all of a fishery, irrigation system, or hotel. Thus, while private enterprise takes hold on many Indian reservations and deserves more support and encouragement, especially considering the large income gap that remains to be closed,[8] government ownership of enterprise is properly a feature of Indian economic development and will be for some time. The question is: How can tribes create value as efficiently as the private sector while operating within the constraints of government ownership.

The answer hinges on getting corporate governance right. Enron and the Sarbanes-Oxley response illustrate the challenges of corporate governance without government ownership. Corporate governance under Indian nation ownership requires another level of care entirely. The problem arises because two competing sets of relationships become mixed and generate role confusion. On the one hand, we generally like our constituents and representatives to be closely connected through elections, correspondence, constituent service, and the like. On the other hand, we like it when the people we put in charge of our hard-earned assets tighten the ship if standards of customer service are slipping or margins are lagging the industry.

When constituents are employees and representatives are directors, all in the same institution—the tribal corporation—roles and relationships become unclear. Say I'm fired from the tribal company and I have a powerful uncle on the tribal council. Should I play "employee" and go through the due process of the corporate personnel grievance system or should I play "constituent" and go through my uncle? Or say I'm a council representative with many constituents on the tribal housing waiting list and the corporation announces a new investment initiative. Should I to play "representative" and expand the housing budget at the expense of the investment or act as "director," focusing on the long-term prospects of the business? Tribal leaders around Indian Country have encountered problems like these in tribal enterprises repeatedly. The questions do not get resolved easily, and if they fester, profitability decays and even collapses.[2]

Successful tribal governments formally divide business affairs from elected leadership, usually via a chartered board of directors, but it does not simply serve to adopt a charter. I have seen one tribe copy the charter of a very successful company for

[2] While the trappings of the foregoing questions are those of tribal councils and tribal housing programs, the underlying dynamic is not Indian per se. The imaginings that opened this section apply equally well to tribal enterprises as to AMTRAK, or British Airways before Margaret Thatcher privatized it.

its own company only to witness utter collapse. Tribal corporate governance requires: a) a firm governing foundation in the constitution of the tribe and related practice; b) a charter and corporate purpose that represent the Indian nation's priorities and commitments; and c) ongoing reinforcement of a new organizational culture supporting the elements of corporate governance.

Stable Civic Governance

Without robust tribal governing institutions, a tribal charter may be a moot point. If, for example, corporate contracts are adjudicated by the tribal council, the enterprise may never attract investors. Or if the tribal council turns over every couple years, the corporate governance system will be perennially at risk of manipulation, if not dismantlement. Corporate governance systems benefit from a civic governance system that provides:

- Staggered council terms or other mechanisms of stability that permit the system of corporate governance to become enshrined in political institutional memory;
- Independent dispute resolution mechanisms that operate fairly and expeditiously to adjudicate contracts, personnel disputes, property rights, and disputes over the corporate charter;
- Well-defined checks and balances so that policy debates come to an end, reflecting accommodation across the branches of government;
- Clear and predictable rules that do not change with the whims of newly elected leaders or narrow majorities; and
- Civil service professionalism that helps create supportive economic policies such as uniform commercial codes or zoning codes and helps guide infrastructure development.

Corporate Charter and Purpose

To have worth beyond the paper on which it is printed, a corporate charter must make clear the overarching purpose of the corporation and faithfully represent community compromises regarding the distribution of authority between the corporation and the government. All organizations benefit from clear purposes, of course, but tribal experience demonstrates that when tribal corporations exist to advance a deeply held or widely held community aim (aside from profitability, which is understood), their chances of success improve because constituents, representatives, directors, and employees do not choose roles as opportunistically. The charter must also pre-allocate decision-making authorities in a manner supportable by the citizens of the nation. Generally speaking, the more powers that can be allocated to the board of directors, the better; however, the allocation of authority also entails political questions whose answers are shades of gray rather than black and white. At a minimum, the charter must specify who will perform the following tasks:

- Recruit, nominate, hire, pay, and remove directors of the board;
- Set dividends and retained earnings;
- Set, apply, and adjudicate corporate personnel policy;
- Approve limited corporate waivers of sovereign immunity;
- Develop and use trust lands;
- Approve or reject investment decisions; and
- Reports corporate performance data.

The Practice of Corporate Governance

And of course, paper documents do not necessarily govern behavior. For it to work, the charter must become a new way of ordering relationships. That takes leadership, behavioral change, and organizational culture. Once the charter is written, tribal political and corporate leaders need to alter the incentives actors face within the corporate governance system. If not, the centripetal forces confounding government ownership will work to drag performance down. Among other things, successful tribal enterprises:

- Maintain the engagement of their directors;
- Provide regular reporting from the corporation to the owners;
- Enforce conflict of interest rules;
- Limit the day-to-day interference of elected leaders in corporate decisions;
- Train newly elected leaders and newly appointed directors in the system of corporate governance; and
- Evaluate performance throughout the corporate governance system regularly.

Conclusion

Closing the income gap in Indian Country and diversifying Native economies will entail tribes working on a variety of strategies simultaneously, including private sector development, individual financial literacy, social program support for work-

ers, and more. Troubleshooting existing systems of corporate governance and developing new ones for tribally owned enterprises will be critical to the portfolio of strategies. Tribal ownership of business shows no signs of waning, yet it poses inherent challenges that must be faced.

The characteristics listed above are shared by the Winnebago Tribe's Ho Chunk, Inc., the Louden Tribal Council's Yukaana Development Corporation, and other successful tribal companies around Indian Country. Adopting these characteristics does not guarantee the success these companies have had. Business is risky. One does not automatically arrive at good corporate governance via a lock-step process, nor is balancing political prerogatives against corporate requirements orderly. Nonetheless the challenges of tribally-owned corporate governance should not lead to despair. Tribes have succeeded precisely because they faced the challenges posed by government ownership directly. They took steps to reduce uncertainty and ambiguity in tribal business by managing the boundaries between government and business well. Continuing to diversify and expand Native economies will hinge on more tribes doing so.

[NOTE: "Native American Contracting Under Section 8(a) of the Small Business Act: Economic, Social and Cultural Impacts" submitted for the record by Mr. Taylor has been retained in the Committee's official files.]

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Notes

[1] (US Commission on Civil Rights, 2003; US Commission on Civil Rights, 2004)
[2] (Kalt, 2007; Jorgensen, 2006; Lee, 2001; Kalt, 1996)
[3] (Jorgensen & Taylor, 2000; Cornell & Kalt, 1992)
[4] 25 U.S.C. §477.
[5] US Internal Revenue Service, Revenue Rule 94-16.
[6] See, e.g., (US GAO, 2006, 3).
[7] 25 U.S.C. §2701 *et seq.*
[8] See, e.g., (Cornell, Jorgensen, Record, & Timeche, 2007)

The CHAIRMAN. Thank you. The Chair will yield to the Ranking Member, Mr. Young.

Mr. YOUNG. Good testimony. Sarah did a great job. I really don't want to ask anymore questions other than the fact that, Mr. Taylor, I had the privilege of reading your report before you put it up there. That is good information, and it is simple, and believe me, we need simple information in Congress before we digest it.

[Laughter.]

Mr. YOUNG. And if we can, Mr. Chairman, I am going to suggest as time goes by, if there is someone that raises their heads in another committee about changing this program, that that information is available for them, everything we are doing here, and I think the suggestion of Tex of a report from this committee is very well taken.

So good job, appreciate it, and it has been a long day. I just thank you. Thank you.

The CHAIRMAN. Gentleman from Oklahoma, Mr. Cole.

Mr. COLE. Thank you, Mr. Chairman. I don't know if we are in a committee meeting or a revival meeting because I feel like saying Amen so much.

[Laughter.]

Mr. COLE. But I have enjoyed this, and I want to begin by just frankly thanking you and thanking the staff. I think it has been excellent presentations and an excellent group here. I do have a couple of points I want to make and then a couple quick questions, and they will be quick.

But as I listened to all three panels, it is just so abundantly clear that we actually have a program that works, that actually did what it was designed to do, much like IGRA worked, and every time we see this I think in Indian Country when we have something that works people get worried about it. You know, they get jealous, I guess. I think gaming is what oil was to the Osages a century ago. I guess all of them are rich and they don't need any help, or any opportunities, but these program, and particularly this, as Mr. McCaleb eloquently pointed out, give Tribes that don't have an opportunity to game real ability to go into the marketplace and compete, and to develop the skills that they need to be successful, and as all these panelists have pointed out, or several of them, this is money that is made privately in a sense, but it flows into public purposes. I see it in my district all over where I see health care clinics, and I see senior citizen centers, and I see job opportunities, and I see kids with scholarships and an opportunity to get an education that their parents and grandparents never had.

So why in the world we would worry about changing a program that does that, and leaves lasting skills and infrastructure for business success in place, I will never ever know.

But just let me ask you if I may, Neal. You made the point in your testimony very eloquently, or your written testimony, that no Indian Nation could be truly sovereign if it wasn't truly independent economically, and you have watched this for a long time and a lot of different ways, and I would like you to just expound on that theme a little bit if you would.

Mr. MCCALEB. Well, I think it is patently clear that if you are financially independent on someone else or another government,

you don't have any true sovereignty, and to acquire that sovereignty, you have to develop an economic base. To acquire individual independent, you have to develop an economic base. You have to have a marketable skill or something, and that is what the SBA program is inculcating in the Tribes that are using it.

The Chickasaw Nation has seen really meteoric growth economically over the last 20 years of Governor Anoatubby's leadership, and it is because he has been focused on economic sovereignty as well as political sovereignty that that has been so successful.

Mr. COLE. I always like to point out, Mr. Chairman, that is a corporate headquarters from our standpoint that never goes to Dallas, and jobs that never go to China, and we have a very vested interest as a state in Tribes being successful. Goodness knows, and when I talk to Tribes I make this point all the time, we of all people ought to know don't trust the Federal government to keep their commitments. So you better get in a position where you can take care of yourself, and policies, and this is one of them that pushes in that direction are the things that we ought to be worried about. I am as fierce as anybody in making sure the Federal government keeps its obligations and its commitments, and does the things it says it is going to do financially, but again, 200 years plus of American history would tell you it doesn't do that very well. At the end of the day you have to depend on yourself more than anything else, and we have a unique opportunity to do that.

This program has helped us, and I just again really want to thank you personally and professionally and politically for holding this and giving us an opportunity because there are other people in Congress that clearly need to be informed about this, and hopefully with the best of intentions are trying to do the wrong thing, but I think you have laid out a very convincing case at this hearing as to why it would be an enormous mistake as well as an injustice to lose the ability to do what we have been able to accomplish through Section 8[a] contract, and I appreciate it very much. Thank you.

Mr. MCCALEB. Thank you, Tom. Let me just ask, if I might, ask you, sir, one of the criticisms—following up on the gentleman from Oklahoma's suggestions of others in Congress having the wrong perceptions—some have criticized the Alaska Native participation in the 8[a] programs because of the high amounts of executive compensation. They argue that this causes an unfair advantage over the individually owned 8[a]s because they must manage their companies and show economic disadvantage.

Why do you believe this is not an unfair disadvantage?

Ms. LUKIN. Thank you, Mr. Chairman.

A couple of things. One, all ANCs are run and managed by a Native Board of Directors that is elected by the Native shareholders, and they, of course, in turn higher the most talented CEOs to operate our companies to the highest degree to provide benefits back to all of our shareholders.

So do I think the CEOs are overcompensated? Absolutely not. Our boards are sophisticated. They go through extensive review processes of what other corporations and companies across the United States are paying to make sure that we are paying fair

market value for the talent that we need to operate our companies appropriately.

The CHAIRMAN. So you don't advocate any caps on executive compensation?

Ms. LUKIN. No, I do not.

The CHAIRMAN. Mr. Secretary, let me ask you, Tribal and Alaska Native Corporation 8[a] companies operate under similar yet different rules as you are acutely aware. Should Congress require that the same rules apply to both tribally owned and ANC corporations?

Mr. MCCALEB. Well, that is the way the program is operated, largely as it relates to graduation from the program and caps on the program which are essential for the continuity, and that needs to be preserved. The differences that exist currently in the operation of the program between Tribes and Tribal governments and ANCs I think are fairly small differences in comparison to this idea that there is not any caps on the contract, and that they can have long-term continuity.

The CHAIRMAN. OK. Mr. Taylor, your report shows that Native 8[a] companies represent only a small share of the procurement dollars, yet other minority contractors claim this is unfair. What is your response to those who make this claim?

Mr. TAYLOR. Well, I think that it goes back to the point I made earlier about there being a correspondence between the exemptions that exist for Tribal and ANC 8[a]s and the circumstances that have been set up by Federal Indian law, the Alaska Native Claim Settlement Act, and the Indian Reorganization Act and so on to set up these corporations as community-owned entities; that the benefits are flowing not to a family of shareholders, not to an entrepreneur, but really to an entire community, and I think that is the distinction that needs to be focused on, if you will. That is the distinction that makes the difference between the treatment under the Section 8[a] rules.

I would comment to Mrs. Lukin's excellent remarks about directors and compensation of executives. It is a very difficult decision to choose how much an executive should be compensated and whether or not that executive should be Native or non-Native, and there is nobody better situated to make the decision and bear the consequences than a Native director.

In countless cases around Indian Country, both corporate cases but also in the administration of government programs, our research finds that when outsiders make the decisions they don't make them nearly as well as when the Native people who bear the consequences directly make them themselves.

The CHAIRMAN. Very good point.

Gentlemen, lady, thank you very much for your testimony and the time and travel you have taken to be with us today. We appreciate it. And was suggested earlier, this will be a good report that our committee will make to ensure that those who perhaps question some of these programs will have fully at their disposal. Thank you.

No further business, the Committee stands adjourned.

[Whereupon, at 1:45 p.m., the Committee was adjourned.]

[Additional material submitted for the record follows:]

[A statement submitted for the record by Beasley Denson, Tribal Miko (Chief), Mississippi Band of Choctaw Indians, follows:]

Statement of Beasley Denson, Tribal Miko (Chief), Mississippi Band of Choctaw Indians

On behalf of the approximately 9600 enrolled members of the Mississippi Band of Choctaw Indians, I would like to thank and commend Chairman Rahall, Ranking Member Young and the Members of the House Committee on Natural Resources for holding this hearing on Diversifying Native Economies. My name is Beasley Denson, and I am Miko (Chief in our Choctaw language) of the Mississippi Band of Choctaw Indians.

Mr. Chairman, I hope my testimony, in addition to those provided by many other Tribal leaders throughout Indian Country, will help you and your colleagues in Congress understand why economic development initiatives such as the 8(a) program are so important to every Tribe's goal of self-determination and self-sufficiency, and why Congress should not adopt misguided proposals that would endanger the proven success and positive results of these programs.

For decades, the Mississippi Choctaw have taken an innovative and forward-thinking approach to business. From wire harness production and assembly, to entrepreneurial business ventures, the Tribe's business model has proven to be successful. However, the realities of the global marketplace forced us, just like many other entities throughout the United States, to change with the times. With the implementation of the North American Free Trade Agreement (NAFTA) and the loss of hundreds of manufacturing jobs to Mexico, the Tribe recognized that that we had to embark upon a path of economic diversification through the creation of other employment opportunities on the reservation

The new economic mix includes gaming, hospitality, and entertainment resulting in a major family destination resort that attracts visitors from throughout the Southeastern United States and beyond. We are fortunate to have two casino properties that anchor our economic development plans. However, Mr. Chairman, I agree with you that Tribes also need to explore various, innovative non-gaming economic development opportunities, which is why it is so important that you are holding this hearing. It's even more important given that some Members of Congress have unfortunately proposed placing new restrictions and/or limits on the very same federal programs that have allowed Tribes like ours to pursue such non-gaming economic development initiatives.

Our Tribe's new approach to industry involves the creation of partnerships that will lead the Mississippi Band of Choctaw Indians into the next generation of employment opportunities. Over six years ago, the Tribe made its move away from traditional manufacturing into more advanced, technical, and highly sophisticated work with the founding of Applied Geo Technologies, Inc. (AGT). AGT is a 100% Tribally-owned, 8(a), chartered corporation of the Mississippi Choctaws. We are very proud AGT has become one of the premier, Tribally-owned providers of advanced manufacturing and operational services solutions in the nation.

Mr. Chairman, here a few examples of why we feel that way:

- In 2001, Lockheed Martin, the world's largest defense contractor, agreed to provide resources to augment AGT's management, technical, and new business development capabilities to stimulate its growth in the federal contracting market. At Lockheed Martin's Kelly Aviation Center in San Antonio, Texas, AGT supports the calibration and repair of assembly equipment for the U.S. Air Force's TF39, T56, F110, F118, and CF6-50 jet engines.
- At the John C. Stennis Space Center in Southern Mississippi, AGT provides precise calibration, metrology, and environmental laboratory services in support of the space shuttle's main engine, among other rocket engine testing services.
- In 2004, AGT entered into a mentor-protégé relationship with AgustaWestland, one of the world's leading helicopter manufacturers. This association has already landed AGT a seat on TEAM US101, which will manufacture the next fleet of helicopters for the President of the United States. AGT is planning to manufacture a majority of the wiring harnesses for the US101 in the Choctaw Tech Parc.
- Also in 2004, AGT entered into an agreement with AAI Corporation to jointly build advanced hydraulic, pneumatic, and mechanical test equipment in the Choctaw Tech Parc. This program is currently serving our military forces with leading-edge manufacturing and engineering solutions to produce equipment that meets the needs of our troops.

- In 2006, the U.S. Army looked to AGT for Operational Services support of the Mississippi Army Ammunition Plant. Under this contract, AGT is responsible for the maintenance and management of industrial property, safety and quality, and environmental regulations.
- In 2007, AGT was awarded its largest contract to date, a 5-year Indefinite Delivery Indefinite Quantity contract with a ceiling price of $69.9 million to support the U.S. Army's Program Executive Office for Simulation, Training and Instrumentation (PEO STRI) Project Manager for Instrumentation, Targets, and Threat Simulators (PM ITTS), Targets Management Office (TMO). Work to be performed by AGT will include field engineering, research and development, light manufacturing, and operational support of applicable target systems.

With the changing manufacturing environment on the reservation, AGT has retained and created many new high-tech employment positions from former Tribal enterprises which resulted in an average wage increase of 16% for the transferred employees. AGT now has 11 locations in five states and employs over 275 professionals. In a short time period, AGT has grown from revenues of $600,000 in its first year to an anticipated $46,500,000 in its sixth year. With growth comes the opportunity to reinvest in the local community—both on and off the reservation—in order to prepare a workforce that can deliver the quality products that are demanded by AGT's high-profile aerospace and defense clientele.

Through a partnership with East Central Community College, AGT can now offer customized training programs through Mississippi's workforce development initiative, thus creating a strong, skilled Mississippi workforce allowing high-tech industries such as AGT ample opportunities for growth. AGT also offers 100% tuition reimbursement for our employees.

As countless witnesses before this Committee have attested to, economic development, including our Tribe's vision of high-tech industry, reaches beyond job creation. It strengthens an entire economy, encompassing all aspects of our quality of life in Choctaw and in Mississippi. Successful economic development projects allow the Tribe to provide those essential government services that any city or State government provides to its citizens. The Tribe's ability to provide affordable housing, health care, law enforcement, education and so many other basic services is greatly enhanced by a strong, diversified economy.

Every time one of our Choctaw youth see pictures of the Space Shuttle heading upwards away from the Earth, or when we see the President arrive at, or depart from, the South Lawn of the White House on the Marine One helicopter, he or she will know that the Mississippi Band of Choctaw Indians played an integral part in allowing these feats of American technological prowess to occur. And maybe, some of them will aspire to one day do the same. Because of companies like AGT, not only will they have that opportunity, but it will be right there on our reservation in east central Mississippi.

When I learned that the Committee would be holding this hearing, I spoke with several employees who work at AGT and IKBI, Inc., Mississippi Choctaw's other 100% Tribally-owned 8(a) company, in order to get their perspective on what economic diversification has meant to them. Allow me to share the story of Ms. Sylvia Graves. Sylvia is an enrolled member of the Tribe who is the Human Resource Manager at AGT. Before AGT, Sylvia worked for an off-reservation out-of-state corporation with operations in the nearby city of Philadelphia, Mississippi. Sylvia told me that her insurance costs kept increasing while her benefits decreased. She said that she was unhappy because morale was low and her fellow employees were unhappy as well. According to Sylvia, AGT changed all of that for her. She says that she enjoys the atmosphere and knows that the benefits she currently receives are very good compared to other manufacturing companies in the area. Since she arrived at AGT, she has seen employment increase by more than 150 workers, the majority of whom work on the reservation in Choctaw. She also told me about some of the employees of a manufacturing company in Carthage, Mississippi that AGT recently acquired. Workers there hadn't received a raise in more than five years and, as you can imagine, morale was low and turnover was high. When AGT took over, a sense of tribal pride was restored as wages and benefits have increased by approximately 16%.

I know this is a simple account from one of our many tribal members, but it is a genuine testimonial of someone who is happy, and enjoys a dramatically improved quality of life, because of the opportunities that AGT and IKBI have created.

Mr. Chairman, I sincerely hope that I do not have to tell our employees, including enrolled Members such as Sylvia, and the thousands of non-Tribal employees that make us the third largest employer in the State of Mississippi, that Congress has enacted proposals that would make it more difficult for, or even prevent, Native

businesses like AGT and IKBI to create these much-needed economic development opportunities.

Again, on behalf of the Mississippi Band of Choctaw Indians, I thank you for the opportunity to share our views on the importance of diversifying native economies, and we look forward to working with you and your colleagues in Congress to strengthen—not weaken—the various federal initiatives such as the 8(a) program that have done so much to benefit Native Americans throughout the United States.

[The Native American Contractors Association Joint Legislative Proposal on Small Business Contracting submitted for the record follows:]

JOINT LEGISLATIVE PROPOSAL
ON SMALL BUSINESS CONTRACTING
SEPTEMBER 25, 2007

Expand Small Business Contracting Opportunities

In reauthorizing the Small Business Act's contracting programs, Congress must include stronger provisions to ensure small businesses actually receive the federal contract support required by law for decades. While the federal contracting market has doubled in size since 2000, small businesses' percentage share of that market has declined significantly due to:

- Bundling/consolidation of contracts into sizes beyond most small contractors' capabilities;
- Huge growth in emergency/overseas contracts not subject to small business contracting requirements or goals;
- Barriers to growth that make it difficult for small contractors to compete for larger contracts;
- Lax compliance with subcontracting plan requirements and limited enforcement; and
- Downsizing of the federal procurement workforce, compounding the above problems, as overworked contracting personnel must deal with higher volumes of contracting actions, pressures to meet deadlines and small business goals, and little or no time to monitor compliance with existing rules designed to prevent/reduce contract bundling/consolidation, enforce subcontracting plan requirements and other limits on subcontracting.

To enable small businesses, particularly 8(a) firms, to compete for a larger share of government contracts, the federal government must take immediate actions to reverse these trends, including enhancing incentives for contracting officers to increase awards to 8(a) and other small businesses. In considering small business contracting legislation, Congress should adopt provisions to:

1. Fulfill Congressional intent to further the Indian Self-Determination policy set forth in 25 U.S.C. 450a by preserving the provisions that promote the competitive viability of "Native enterprises" small business concerns certified by SBA as owned by Indian Tribes, Alaska Native regional or village corporations, or Native Hawaiian Organizations that help support their Native communities by developing more self-sufficient Native economies;
2. Support provisions that tighten limits on bundling and consolidation of contracts, break up such contracts for award to small businesses or employ procurement procedures to enable teams of Native enterprises and other small businesses to pursue larger contracts. Require contracting agencies to issue a Request For Information (RFI) to small businesses so they have a chance to form teams to pursue these larger contracting opportunities (sections 1001 and 1002 of S. 3778 of the 109th Congress proposed such teaming approaches);
3. Increase the Government-wide contracting goals for awards to small business (along the lines of section 201 of H.R. 1873) of not less than 30% of total contract awards to small business, and not less than 8% of total contract and subcontract awards to small disadvantaged business concerns;
4. Include overseas contracts within the Government-wide contracting goals (like section 202 of H.R. 1873), and require reporting of awards to small businesses as prime or subcontractors performing contracts overseas (as proposed in section 1306 of S. 3778);
5. Enhance the ability of individuals to qualify for certification as 8(a) program participants and to pursue larger contracts on a competitive or non-competitive basis (as proposed in sections 202 of H.R. 2532);

6. Increase the net worth thresholds, including annual inflationary adjustments, for individuals seeking to qualify and retain eligibility for certification as 8(a) program participants (along the lines of section 1242 of S. 3778, or section 202 of H.R. 2532);
7. Double each competitive thresholds specified in 15 U.S.C. 637(d)(1)(D)(ii), (as proposed in section 202 of H.R. 2532);
8. Encourage small businesses with larger contracts to implement subcontracting plans to develop stronger business alliances among all types of small business contractors, including 8(a) and other small disadvantaged concerns, HUBZone, service disabled veteran-owned, women-owned and other small businesses;
9. Revisit size standards (as both the Senate and House Small Business Committees have proposed), but leave in place the new requirements for small business recertification that just became applicable on June 30, 2007; and
10. Support legislative or administrative directives for SBA to accept certifications by other federal, state and local governments, under such criteria as SBA may prescribe by regulation or order, in certifying small disadvantaged businesses, and other subcategories of small businesses for which certifications are required (sections 1221, 1232 and 1241 of S. 3778).

[A statement submitted for the record by the National Center for American Indian Enterprise Development follows:]

Statement of the National Center for American Indian Enterprise Development

Chairman Rahall and Ranking Member Young, the National Center for American Indian Enterprise Development (NCAIED) commends the House Committee on Natural Resources for convening this oversight hearing on "Diversifying Native Economies" as a key goal. The NCAIED presents this testimony on the roles that Native business development and government contracting activities play in both diversifying and strengthening our Native economies.

The National Center or NCAIED is the longest serving Native business development assistance provider in the United States. Our mission is to develop the American Indian private sector as a means to help our Native communities become self-sufficient. Formed in 1969 as the non-profit Urban Indian Development Association, we have evolved over the last 38 years from one office with an urban Indian focus into a national organization with supporting non-profit centers across the country. We provide technical assistance and business development and management consulting services nationwide to Indian tribes, Alaska regional and village corporations ("ANCs"), Native Hawaiian Organizations, and businesses owned by tribes, ANCs, and individual Native Americans, Alaska Natives, and Native Hawaiians.

The NCAIED headquarters and supporting centers are staffed primarily by Native American business and procurement consultants with experience in dealing with such issues as tribal sovereign immunity, tribal trust lands and restricted allotments that are inalienable and therefore cannot be used as collateral for business loans, remoteness and lack of physical and technological infrastructure to support business development. The Minority Business Development Agency (MBDA) of the Department of Commerce began supporting our program many years ago because, unlike other small business service centers, NCAIED designs its centers and trains our staff to devote extra time and attention to help individual entrepreneurs and Indian tribes learn how to conduct business feasibility studies, develop business plans, establish banking relationships and lines of credit, begin marketing, expand operations, and even enter the challenging federal procurement market.

The NCAIED's leaders have always played pivotal roles in spurring small business startups in the commercial and government marketplaces, and in breaking down barriers that impede economic development and diversification activities in our Native communities across the United States. We offer the following comments on such barriers, and also make several recommendations for future action.

Earlier Oversight Hearings on Indian Business Development

In 1987, our then President, Steven Stallings, testified at the first of several important hearings of the Senate Indian Affairs Committee on Indian economic development. At the time, we operated five offices in the West assisting almost 600 companies, most owned by individual Native Americans and some by tribes. Mr. Stallings recommended expansion of the Buy Indian Act's application to more federal agencies, and adoption of a Buy Indian Act certification that could be accepted by

all federal contracting agencies, and satisfy eligibility for the Small Business Administration (SBA) contracting programs. He urged that more contracts be issued as Buy Indian because what he called "unchecked discretionary authority" of the Bureau of Indian Affairs (BIA) was resulting in many valuable procurement opportunities being lost. Unfortunately, lack of Buy Indian Act usage and enforcement persist to this day.

Mr. Stallings reported that Indian-owned firms were encountering great difficulty in getting certified in the SBA's section 8(a) Business Development Program. Of the few who achieved certification, most of them received no 8(a) contracts. The two largest contracts (representing the majority of 8(a) award dollars to Indian-owned companies) had been awarded to tribal-owned companies on the Devil's Lake Sioux and Fort Peck Reservations under special arrangements. Most of the 8(a) certifications resulted from a Memorandum of Understanding signed by SBA and the Department of Defense (DOD) in September 1983. The MOU committed SBA to "receive" 150 fully completed applications for 8(a) status and "target" 75 of them for certification. Mr. Stallings testified that while SBA did its part, DOD had not provided the contract support it had promised. He recommended improvements to the Buy Indian Act, the 8(a) program, and establishment of a National Center for Economic Development to provide assistance to Indian-owned businesses and tribal governments in Indian economic development, assessing needs for training, creating effective training models, implementing training programs, and operating technical assistance centers and a clearing house.

When the Senate Committee held a later oversight hearing in 1988 on "Barriers to Indian Participation in Government Procurement Contracting," Mr. Stallings again testified in support of reform of the 8(a) program, especially for tribal-owned companies. He reported that the growth of contracting companies owned by Tribes and American Indian and Alaska Native individuals lagged far behind that of other groups (only 14,843 and generating gross receipts of just $646.7 million). See Oversight Hearing on "Barriers to Indian Participation in Government Procurement Contracting," Senate Select Committee on Indian Affairs, 100th Cong. 2d Sess. 80 (1988). These numbers represented only 1.8% of the total number of small businesses, and with a mere l.4% in gross receipts of all minority-owned businesses, combined. Comparative figures showed: 248,141 Hispanic-owned companies with gross receipts of nearly $15 billion; 339,239 African American-owned firms with gross receipts of $12.4 billion; and 240,799 firms owned by Asian American and other minorities with gross receipts of nearly $17.3 billion. Id. To reach parity with these other groups on a per capita basis, he estimated that a 4,000% increase in Native business ownership would be needed. Id.

Ronald Solimon, now Chairman of NCAIED's Board of Directors, also testified at the 1988 hearing as then CEO of Laguna Industries, Inc. He explained how his collaboration with Raytheon Corporation, SBA and DOD had led to a joint venture between Laguna Industries with Raytheon that was awarded a DOD contract. Mr. Solimon recommended that the Congress amend Section 8(a) to authorize 8(a) companies owned by Tribes or ANCs to joint venture with companies that could mentor them along the way.

The low level of federal (particularly defense) contract awards to Native-owned firms greatly concerned then Committee Chairman Daniel K. Inouye. He emphasized that "directing [the] purchasing power [of the U.S. Government] to accomplish social goals such as assisting disadvantaged members of society is well established" and acknowledged that "unfortunately, ...this public policy goal has not been achieved with respect to the participation of businesses owned by [N]ative Americans." Id. at 2.[1] In keeping with federal Indian policies, he acknowledged that it is Native groups' "common trust relationship with the United States" that "allow[s] the Congress to legislate unique benefits and treatment for the Native Americans." Id.

Responding to these recommendations, the Congress passed the Business Opportunity Development Reform Act in late 1988 (as well as amendments authored by Congressman Rhodes in 1990) that added the special provisions in Section 8(a) now applicable to companies owned by tribes and ANCs. Congress included these special

[1] The public policy referenced in Chairman Inouye's 1988 statement derives from the U.S. Constitution's grant to Congress of the power "to regulate Commerce...with the Indian Tribes." Article I, § 8, ¶ 3. This Constitutional provision, and its interpretation in subsequent landmark Supreme Court decisions, gave rise to the federal government's special political relationship with and trust responsibilities to the tribes. See Cherokee Nation v. Georgia, 30 U.S. 1 (1831); Worcester v. Georgia, 31 U.S. 515 (1832). Thus Congressional enactments bestowing special rights to tribes and ANCs are based on this political relationship and trust obligation, not on a racial classification designed to remedy past racial discrimination.

8(a) provisions recognizing that tribes and ANCs, as representative organizations, are responsible for generating continuing income and jobs for, and improving the livelihood of, hundreds or thousands of tribal members and Native shareholders.

In parallel action in 1988, the Congress also amended the Procurement Technical Assistance Center (PTAC) Program to target assistance to Indian Country. It authorized creation of American Indian PTACs, or AIPTACs, designed to serve multiple Bureau of Indian Affairs areas. Many of these AIPTACs now operate within the network of the NCAIED's centers, and help Native-owned companies learn how to navigate the complex federal procurement marketplace using the 8(a) program and other procurement and business development tools available to them.

NCAIED and Indian Business Development Today

For over 38 years, the NCAIED has been assisting tribes and individual Native American entrepreneurs seeking to form, or expand existing, business ventures. Under the leadership of current President/CEO Kenneth Robbins, the NCAIED has expanded AIPTAC services funded by the DOD's Defense Logistics Agency and expanded Native American Business Enterprise Center (NABEC) services funded by the MBDA. These centers operate in the following locations: Mesa, Arizona, and El Monte and El Segundo, California, serving the West and Southwest; Seattle and Lynwood, Washington assisting the Pacific Northwest area and part of Alaska; Polson, Montana, and a satellite office in Bismarck, North Dakota, serving the Northern Plains area; Denver, Colorado, serving states south of the Plains area; and serving the East Coast and parts of the Midwest are three centers, in Marietta, Georgia, Reston, Virginia and a new center in Pembroke, North Carolina.

These centers help the DOD, MBDA, SBA, the General Services Administration, and other federal agencies in implementing many programs, including the Mentor Protégé programs, the HUB Zone Program, Electronic Commerce/Electronic Data Interchange, subcontract plan fulfillment and myriad other defense requirements. The centers also provide training on how to register electronically with the Federal Government, how to identify marketing opportunities and market goods and services, and how to navigate various procurement requirements (including the acquisition of commercial products). More general business services include helping companies develop business plans, secure financing, find business partners, learn the federal procurement ropes, apply for SBA program certifications, market their capabilities, identify contracting opportunities, prepare proposals, and win contracts.

In addition to their existing responsibilities, the NCAIED's centers are implementing new procurement assistance projects. The most exciting is our new Native American Indian Business Development web portal called NativeEDGE (www.nativeedge.org), with a call center to be implemented, a publications clearinghouse of federal and private sector information on economic development and procurement opportunities and a wealth of other important and helpful information for tribes, ANCs, and individuals who are American Indians, Alaska Natives, and Native Hawaiians. The procurement information on NativeEDGE will make more accessible the contract opportunities available in the defense, homeland security and other federal sectors. To meet the corresponding increase in demands for procurement technical assistance from AIPTACs, the NCAIED and its supporting centers are playing vital roles in promoting greater use of contracting companies owned by tribes, ANCs, and other Native entities and entrepreneurs.

As the above-mentioned cooperative agreements each require the federal dollars to be matched by a significant amount (as high as 25 percent) of private funding, the NCAIED generally raises more than 50 percent of its own funds. In addition to client work under these cooperative agreements, the NCAIED produces various events that train, promote and market Indian enterprises to the public and private sectors. One such event is the phenomenally successful Reservation Economic Summit & American Indian Business Trade Fair. At RES 2007, over 3,000 individuals and 300 exhibitors attended, including tribes, ANCs, federal and other government procurement officials, and corporate and Native business representatives.

The NCAIED estimates that its operations have assisted approximately 80% of the tribes in the lower 48 states and more than 25,000 Native enterprises, and have trained over 10,000 tribal members trained. Furthermore, due to its centers' bid matching and other business assistance efforts, as well as the networking opportunities produced at the RES and other similar conferences, NCAIED clients have received well over $3 billion in contract awards (translating to over 60,000 jobs) in the last 4 years alone.

The results of all these efforts demonstrate real progress. The U.S. Census Bureau reported in 1997 that its data (thought incomplete) showed 197,300 Native American-owned businesses in the United States, up 84% from 1992, employing 298,700 people and generating $34.3 billion in revenues. See 1997 Economic Census:

Survey of Minority Owned Business Enterprises: Company Statistics Series (2001). By 2002, Census estimates were 206,125 Native-owned firms, up 4% from the 1997, but total revenues down 23% to $26.3 billion. See 2002 Survey of Business Owners, U.S. Census Bureau.

Of the roughly 360 tribes in the lower 48 states, about several dozen have launched government contracting operations and applied for 8(a) program certification. Some are very successful, while others are still struggling to break into the difficult federal market. The SBA's list of the top 8(a) firms include many owned by ANCs and Tribes, and many have appeared on the Top 25 8(a) list of information technology firms. See Wakeman, 8(a)s Still a hit with ANCs, tribally owned companies, 20 Washington Technology (Sept. 26, 2005).

In short, after years of being encouraged by Congress to do so, and after seeing the success of other Native contractors, more tribes as well as ANCs are pursuing government sector opportunities.

Reports Confirm Native Business Successes

Numerous reports, including the studies discussed in this Committee's hearing, confirm that the above-recited Congressional initiatives to spur Native economic development have been remarkably successful. One such report was issued in April 2006 by the Government Accountability Office entitled "Increased Use of Alaska Native Corporations' Special 8(a) Provisions Calls for Tailored Oversight" (GAO-06-399) (the "GAO Report"). This GAO report provided helpful, balanced information on ANC 8(a) contracting as activities undertaken in response to the Alaska Native Claims Settlement Act that directed Alaska Native regional and village corporations to pursue economic development for the benefit of their Alaska Native shareholders. GAO's report also explained how ANCs' participation in the 8(a) program has helped them generate revenues to return benefits to their Alaska Native shareholders, and how the SBA and federal agencies need to improve their oversight of ANC and other 8(a) contracting.

Also very helpful in presenting a clearer picture of economic development progress in Indian Country is the September 2007 report, entitled "Native American Contracting Under Section 8(a) of the Small Business Act—Economic, Social and Cultural Impacts," by Jonathan B. Taylor of Taylor Policy Group, Inc., who is associated with the Harvard Project. His analysis confirms what NCAIED's network of centers has learned anecdotally from working with Native-owned businesses across the country. That is: the special 8(a) provisions have succeeded, as Congress intended, in facilitating Native communities' diversification, self-determination and economic self-sufficiency. The Mentor-Protégé Programs of the various federal agencies (e.g., SBA, DOD) also have helped in strengthening tribal- and ANC-owned companies.

The NCAIED is proud of the role it has played in fostering informal types of mentoring and partnering by helping tribes and ANCs find teaming partners and subcontractors. A good example is the support that the NANA Development Corporation and its subsidiaries have provided to several of our centers in fulfilling contract requirements by subcontracting with a variety of client firms. To help expand such partnering, not only among Native contractors but also with other small business partners, the NCAIED has been conducting special 8(a) panel discussions at the various Indian business development and procurement technical assistance conferences hosted or co-hosted by its centers over the last two years. These sessions have focused on the special 8(a) provisions, their history, purpose, and results. The CEOs of many 8(a) companies owned by tribes or ANCs have described their 8(a) experiences as part of procurement training workshops. And, to memorialize the importance of partnering results, the NCAIED negotiated and executed a Memorandum of Understanding (MOU) with the Native American Contractors Association (NACA) last year, and just renewed the MOU for another year. This joint effort has launched a partnering and subcontracting demonstration program to encourage greater collaboration among Native and other contractors in bid matching, joint venturing, teaming and performing federal contracts.

The NCAIED has been working with NACA and the National Congress of the American Indians (NCAI) to develop joint statements, and to reach out to other organizations representing 8(a) and other small contractors to find common ground. We believe it is imperative to discuss, work together and agree on joint efforts that will succeed in persuading the federal agencies to meet (and possibly even exceed) their 23% small business contracting goals.

Recommendations for Additional Improvements

The NCAIED recommends appropriate corrective actions by SBA and federal procurement agencies to strengthen their oversight of contracting activities under the

8(a) program as well as SBA's other small business programs. All of the recommended actions will require more Native American and other personnel to determine, for example, how to collect better, more complete data on 8(a) companies' revenues in their primary and secondary industry codes, or how to monitor compliance with subcontracting limitations, and so on. The NCAIED, NACA, NCAI and other organizations representing small business contractors can and should work with SBA to improve oversight.

Below are NCAIED's specific recommendations:

1. Create an SBA Office of Native American Affairs:

The NCAIED recommends the creation of an SBA Office of Native American Affairs. Of the legislative proposals offered, the NCAIED supports the approach in S. 1671, the Entrepreneurship Development Act of 2007. This bill, ordered reported to the Senate in late July, contains Senator Tim Johnson's proposal to create an Office of Native American Affairs and new Native American Business Centers. This Office would provide the additional administrative and procurement support and oversight that are becoming increasingly important as contracting companies owned by tribes, ANCs and other Native entities expand in number. The Office would enable the SBA to implement the GAO's recommendation that SBA tailor its policies and practices to deal more effectively with the complexities of ANCs' and tribes' business structures, joint ventures and other partnering arrangements. This Office also could coordinate the provision of business development assistance to Native entities. The NCAIED recommends involvement of tribes, ANCs, AIPTACs, NABECs, SBDCs, Native Community Development Financial Institutions (NCDFI's) and tribal colleges to expand the delivery of business development services to Native communities most efficiently, and without duplication of efforts and costs. NCAIED is already contributing its experience with its network of AIPTACs and NABECs in joint working group discussions with NCAI, NACA and the SBA to develop better ways to assist small businesses of all types enhance data collection, and improve oversight of small business contracting.

2. Improve Implementation of the 8(a) Program:

The NCAIED recommends, and is partnering with NCAI and NACA, in working group discussions with SBA on better implementation of the special 8(a), SDB and other small business contracting issues by:

a) advising on needed improvements to the 8(a) certification process for Tribes, ANCs and other eligible applicants; and
b) increasing and improving data collection for better monitoring of contracting activities by 8(a) firms within their primary and secondary industry categories and in their mix of federal contracting versus commercial business activities.

3. Ensure that Government Agencies Meet (or Exceed) Small Business Contracting Goals:

Tribes, ANCs, NCAI, NCAIED, NACA and the other national organizations representing 8(a) and other contractors must rally together to focus much more attention on the question of what can be done effectively to improve the record of all federal agencies in meeting both their prime and subcontracting goals for awards to small and minority businesses. With the significant growth in the federal market, there is no good excuse for the continual decline in the percentage of contract awards to small businesses. The NCAIED recommends that all the key players in the small business community come together, meet, discuss openly their different perspectives, and reach a consensus on how best to ensure that all the federal procurement agencies develop, publish and implement more aggressive policies and procedures to meet, and possibly even exceed, their goals for contract awards to small and minority businesses. The NCAIED, NACA and NCAI have developed the following joint policy positions that we are still vetting but wish to share with the House Resources Committee:

- Fulfill Congressional intent to further the Indian Self-Determination policy set forth in 25 U.S.C. 450a by preserving the provisions that promote the competitive viability of 8(a) companies owned by Indian tribes, Alaska Native regional or village corporations, and Native Hawaiian Organizations that help support their Native communities by developing more self-sufficient Native economies;
- Support limits on bundling and consolidation of contracts, break up such contracts for award to small businesses, or employ procurement procedures to enable teams of Native-owned and other small businesses to pursue bundled or consolidated contracts;
- Increase the Government-wide contracting goals for awards to small business (to not less than 30% of total contract awards to small business, and not less than 8% of total contract and subcontract awards to small disadvantaged busi-

ness and 8(a) concerns), and strengthen SBA's authority to negotiate with individual contracting agencies to establish goals higher than their current levels, and to require the agencies to be more accountable for their past performance and future plans for making more small business awards in each subcategory of small business contracting;

- Increase the net worth thresholds above $250,000 for individuals seeking to qualify for 8(a) certification, and above $750,000 for continued eligibility for the 8(a) and SDB programs, and include annual inflationary adjustments to any new thresholds established;
- Increase the competitive thresholds to enable individual owned 8(a) companies to pursue larger contracts;
- Encourage small businesses with larger contracts to implement subcontracting plans to develop stronger business alliances among all types of small business contractors, including 8(a) and other small disadvantaged concerns, HUBZone, service disabled veteran-owned, women-owned and other small businesses;
- Increase size standards with adjustments at least for inflation, if not also to take into account the capital requirements for each industry;
- Establish a reporting and monitoring mechanism for compliance with the prime contractor performance requirements, for all direct award 8(a) contracts and for task order and delivery order contracts.
- Establish milestones and reporting for all direct award joint venture contracts approved by SBA; and
- Strengthen the mentor-protégé program requirements so that more emphasis is placed on mentoring and providing benefits to protégés other than just contract support.

4. Actions by the House Resources Committee:

The NCAIED commends the Committee for holding this important hearing on the importance of helping tribes and ANCs diversify their native economies. In addition to making the hearing record available to the Congress and the public, we urge the Committee members to share what they have learned with their colleagues on other committees. Committee members should explain why Congress enacted the special economic incentive and contracting provisions for enterprises owned by tribes and ANCs, and how these programs are fulfilling their purpose, and the federal government's trust responsibility.

This Committee also can play a major role in urging the SBA and other departments and agencies to increase contracting opportunities for Native and other small businesses, and continue to work collaboratively with NCAIED, NACA and NCAI to develop more effective reporting and monitoring mechanisms. The Committee certainly should urge the various federal contracting agencies over which it has direct jurisdiction (e.g., the Departments of the Interior, Energy, etc.) to meet and exceed their individual agency's small and minority business contracting and subcontracting goals, using Buy Indian Act contracting authority to the fullest extent possible. Just as the 1987 and 1988 hearings witnesses emphasized, the federal departments and agencies that disburse funds "for the benefit of Indians" (e.g., Bureau of Indian Affairs, other Interior agencies, the Indian Health Service, the Army Corps of Engineers, the Departments of Transportation, Housing, Agriculture, etc.) should be using the Buy Indian Act authority to contract with Native-owned businesses, small or large.

To ensure that more "teeth" are put into Buy Indian Act implementation, the Committee should request briefings by the agencies and conduct oversight hearings to receive status reports from these contracting agencies on their past performance in contracting with Native contractors of all types, and their plans for increasing that contracting support. Witnesses from Indian country also should be invited to report on their efforts, successful and unsuccessful, to convince these agencies to award contracts and other arrangements (such as park concessions) qualified Native contractors.

The NCAIED thanks the House Resources Committee for the opportunity to present these remarks and recommendations.

Headquarters:
953 East Juanita Avenue—Mesa, AZ 85204—800-4NCAIED—www.ncaied.org
Regional Offices:
Atlanta, GA—Los Angeles, CA—Polson, MT—Seattle, WA—Washington, DC