8. Common Special Purpose Entities

8.1 Overview and Introduction

Indian tribal governments exist to preserve their culture and natural resources and protect and enhance the health, safety, and welfare of their communities. In exchange for ceding most of their lands and other resources, the U.S. government promised tribal government's protection and provision of care for the health and welfare of tribal members. Since the enactment of the federal Indian Self-Determination Act and Assistance Act (ISDEAA) under Public Law 93-638 (638) federal programs and services have been administered by tribes to promote tribal self-sufficiency and provide more meaningful services to the communities they serve. While federal support of Indian programs is still the dominant source of funding, many tribes also use their own governmental revenues to augment or supplement federal programs.

Due to the regulations and/or specific expertise required to operate some of the federal government awarded programs and contracts, some tribes have created legally separate, tribally-owned entities, such as housing authorities, healthcare facilities, and schools. Additionally, tribes have developed various enterprises to provide revenue streams to tribal governments to assist in government functions, infrastructure development, and provision of other services. Further, many of those enterprises effectively generate much-needed local jobs. Although tribes have developed a broad range of separate governmental and enterprise entities, this chapter addresses some of the more common separate entities.

Many of these government and enterprise entities have been established by tribes as separate legal entities with their own corporate charters and/or tribal ordinances, with separate governing bodies. These separate governing bodies are established to provide subject-matter expertise to effectuate sustainable entities,

comply with specific regulatory requirements, and meet the goals of the functions/entities. Further, some entities, due to the nature or regulatory requirements of their programs, goals, and functions, may also be subject to specific accounting and financial reporting requirements.

In many cases, the tribe provides funding to such 'special purpose' entities through loans or equity investments. GASB Codification 2600.116 specifies accounting for equity interests in component units – legally separate entities for which the reporting entity is financially accountable. For discretely presented component units, an equity interest should be reported, using the equity method, as an asset of the primary government in the fund that has the equity interest.[114]

8.2 Healthcare

Tribes have historically been provided with healthcare services, from the early days of the original reservations, when they were delivered by U.S. government Indian agents, and then by the U.S. Department of Health and Human Services, Indian Health Services (IHS). The ISDEAA and implementing regulations allow tribes to assume management and administration of health programs, functions, and services from the federal government. Such activities are operated by tribes based on contracts or compacts between the tribe and the federal government. Further, the Indian Healthcare Improvement Act strengthened the self- determination law and the tribes' ability to collect third-party payments from Medicare, Medicaid, and private insurance. These health coverage programs are used to supplement, not to be deducted from, federal resources.

Healthcare entails many regulations, including provisions for standards of care, accreditation for healthcare and hospital facilities, and compliance with reimbursement of services from patient resources under federal Medicare and Medicaid regulations. Per federal requirements, Medicare and Medicaid reimbursements are to be utilized to ensure facility improvements, quality improvements, and other health-related activities to meet the health needs of the tribal community.

Healthcare accounting is complex due to these factors, including medical protocols, physical maintenance of facilities, accreditation standards, and the need for financial information by many departments to effectively manage and comply with medical professional standards.

Accounting for Tribal Healthcare

Tribes account for their tribal healthcare activities either as a special revenue fund or an enterprise fund. Some tribes create a separate legal entity, typically for healthcare facilities that include hospitalization. The AICPA audit and accounting guide *Health Care Entities* provides accounting and financial reporting guidance specific to health care transactions, including guidance for governmental health care entities. That guide should be referenced by the preparers and auditors of financial statements of tribal health care entities.

Some accounting and financial reporting guidance applicable to tribal health care include the following:

- Although tribal healthcare entities bill third party for services, amounts for deductibles, co-pays, and amounts not eligible for reimbursements are not bad debt write-offs, but revenue or contractual allowances, as contra- revenues. Revenue accruals and collections are complex, requiring timely analysis and timely management of the revenue-cycle coding, billing, and collection systems, and compliance with various payer regulations and requirements.

- Most tribes receive one flat-rate, federal pass-through amount per medical or dental visit, as determined annually by OMB for federal IHS/tribal facilities.

[114] However, equity interests owned by governmental funds generally are not reported as assets because GASB Codification 2600.116 refers to GASB Codification J50.107 which indicates the equity interest ". . . generally represents capital assets and otherwise does not meet the definition of a financial resource."

Therefore, the private-sector fee for services billing is not used for tribal reimbursements from Medicare and Medicaid, unless a tribe has specifically negotiated such reimbursement agreements.

- Tribes that maintain their healthcare entity as an enterprise fund, on a full accrual basis, should record receivables for services provided, based on the dates of service. Those that report their healthcare entity as a government fund on a modified accrual basis, record receivables but recognize revenue only to the extent they are available to pay current liabilities, with the remainder reported as a deferred inflow of resources. See Chapter 9, Federal Grants and Contracts for further information regarding revenue recognition.

- Accounting and reporting for purchased referred care (PRC), previously called Contract Health Services, is complicated. The PRC program funds services for tribal members who require further medical care beyond the direct services provided by a tribal healthcare facility, such as outpatient care, laboratory, dental, pharmacy, and transportation services. PRC also includes referrals and purchase order commitments that are made to external providers for other needed medical services. The payments made to external providers or facilities are as the payer of last resort, which means PRC is liable to pay after all other patient resource payments are made. Tracking the incurred claims and residual amounts is complex and requires detailed reports and analytical claims analysis to accurately record liabilities to tribal healthcare financial statements. Liabilities for obligated claims that are expected to be paid for the fiscal period should be accrued, and incurred but not reported claims should be disclosed. For governmental funds, it would be the amount expected to be liquidated with available expendable resource. For proprietary funds and entity-wide financials, the full liability including incurred but not reported claims are accrued.

Typically, tribal healthcare facilities provide comprehensive services in their facilities. This requires complex budgeting for departments or functions, along with tracking of various revenue sources and uses.

If a tribe contracts/compacts for a healthcare facility and equipment, and the tribe obtains title, the capital assets on the date of acquisition would be recorded as contributed capital.

Regulatory Requirements

Tribal health care is subject to extensive regulation, including:

- Tribes typically contract or compact (legal agreements with funding for certain programs, functions, services, and activities) with the U.S. Indian Health Service under the ISDEAA. If the tribe elects to contract or compact, a single audit is required, as well as compliance with other applicable federal OMB regulations. Further, tribes may add other healthcare programs funded with other federal U.S. Indian Health Service (IHS) or U.S. Department of Health and Human Services (DHHS) grant programs.

- Billing and collection from Medicare and Medicaid require compliance with Public Law 106-291, which stipulates that tribes are to use the income first for improvements necessary to achieve or maintain requirements and standards for accreditation and to receive such funds, and/or supplement the federal program's activities.

- Regulatory compliance requirements of healthcare facilities must be integrated into clinical and financial operations, as well as budgeting. Information technology systems are critical to the successful compliance.

These systems can be complex and costly, and require on-going monitoring and strategic planning.

8.3 Housing

Tribes have been provided with housing and community development services by the U.S. government through the U.S. Department of Housing and Urban Development (HUD). In 1996, the Native American Housing Assistance and Self- Determination Act (NAHASDA) became law (Public Law 104-330), providing for tribes to contract with HUD to develop their own housing and community development programs. Primarily, NAHASDA funding provides the construction and maintenance of housing for low-to-moderate income tribal residents and development of community infrastructure to support affordable, sanitary, and safe housing on tribal reservations. The Bureau of Indian Affairs has also provided some housing assistance.

Prior to NAHASDA, HUD required tribes to maintain separate legal housing entities. Under NAHASDA, tribes have either maintained their separate legal entities (termed as Tribal Designated Housing Entity or TDHE), or incorporated those entities as a department within a tribe. Each tribe notifies HUD as to whom to direct the NAHASDA funds. Further, each tribe develops a tribally approved Indian Housing Plan that includes a budget for their annual NAHASDA funding.

Accounting for Tribal Housing

Tribes account for their tribal housing either as a special revenue fund or an enterprise fund. Some tribes have established their TDHE as a separate legal entity. Accounting and financial reporting considerations applicable to tribal housing include:

- **Homeownership Agreements**: Tribal housing programs utilize various types of homeownership agreements, which have special accounting and financial reporting considerations. Examples include:
    - **Mutual Help/Homeownership Agreements**: These types of agreements were standardized and used prior to NAHASDA. They require that equity payments made by homeowners are tracked and accounted for as liabilities until the home is determined to be conveyed to the homeowner once the terms and conditions for the agreement are met. Further, those liabilities should be maintained in cash and restricted. Once the home is conveyed, the homeowner's 'equity' liability funds may be recognized as revenues by the housing entity.
    - **Lease-to-Own or Other Types of Agreements**: Many tribal housing entities use some type of lease-to-own agreement for homeownership.

These types of agreements need to be closely examined as to the terms and requirements to determine the appropriate type of lease accounting (in accordance with GASB) that should be implemented in the tribal housing entity's records. GASB is considering a change to lease accounting, but currently requires lessors to account for leases as sales-type, direct financing, leveraged, or operating, depending on their terms.

- **Rental Income**: Tribes have rental housing that they price based on participants' income and family composition. The rental amounts are typically tracked by tenant through a subsidiary tenant accounts receivable. The accounts receivable should be posted monthly for receivables and rental revenues. Further, the tenant receivables must be reviewed for collections, including a policy for the allowance and write-off of uncollectible amounts.

- **Home Inventory**: Some tribes implement HUD-approved regulations that provide that homes for sale may be recorded as home inventory (non-depreciated). Other tribal housing entities depreciate their homes as capital assets. A policy for determining whether homes should be reported as inventory held for sale or as other assets should be in place.

- **Development Costs**: As tribal housing entities develop new units; they must adhere to HUD requirements for the funded costs that include both administrative oversight and the actual construction/development costs. Project accounting to track all costs for regulatory and federal reporting purposes, and then the total capital costs to account for the assets upon completion, should be detailed and needs to be carefully designed in the accounting system, or alternatively, detailed schedules may be maintained to support the summary totals recorded in the general ledger.

Regulatory Requirements

Tribal housing is often funded by federal grant and contracts and is therefore subject to applicable federal regulations. Considerations include:

- Tribes typically enter into an agreement (a contract or compact) with HUD under the NAHASDA for an Indian Housing Block Grant that includes their Indian Housing Plan. A contract with HUD requires compliance with the Single Audit Act and compliance with other applicable federal OMB and housing regulations. Further, tribes may add other housing and/or community development related programs funded with other federal HUD, other federal agency, or tribal appropriated funds.

- Billing and collection of tenant rents from housing units under management may be considered program income, which is to be used for any housing or housing-related activity and is not subject to other federal requirements.

- Housing ownership programs require a written housing agreement between the tribe or TDHE and the housing participant, which governs the payments, terms, and conditions as to when the housing participant obtains title to a home.

- Tribal housing entities must follow their HUD-approved Indian Housing Plans, or modify those plans accordingly. Annual federal reports on the performance activities and costs are required.

8.4 Gaming

Some tribes initiated gaming activities on their reservations as early as the 1980s. In 1988, the Indian Gaming Regulatory Act (IGRA, Public Law 100-497) was passed which established the federal legal and regulatory framework for Indian gaming in the United States. The law created the National Indian Gaming Commission (NIGC), which provides for federal regulatory oversight to license and regulate tribal gaming activities.

Specific regulations include requirements for federal licensing, tribal gaming laws and compliance, and procedures for establishment of state/tribal gaming Compacts. Net revenues from gaming provide resources to tribes to support tribal programs and in some cases, per-capita distributions to tribal members. Per- capita payments may be made only in accordance with a Revenue Allocation Plan that has been approved by the Secretary of the Department of the Interior.

Accounting for Tribal Gaming

Tribes account for their gaming activities using accrual accounting and the economic measurement focus either in enterprise funds or component units (discretely presented or blended), depending on how the gaming entity is structured.

The GASB has adopted guidance on accounting for gaming activities that is included in GASB Codification P80.811-.822. The Codification identifies the 2011 version of the AICPA Gaming audit and accounting guide is identified as the source of this guidance. The AICPA gaming guide provides accounting and financial reporting guidance specific to gaming transactions, including guidance for governmental gaming entities. However, as the AICPA guide is updated to reflect changes in accounting and financial reporting, financial statement preparers and auditors should be aware that differences may arise between it and gaming guidance in the GASB Codification. The guidance in GASB Codification P80.911-.822 is Category B level guidance in the hierarchy of generally accepted accounting principles. Guidance in AICPA literature not cleared by the GASB is nonauthoritative.

Accounting and financial reporting considerations specific to tribal gaming include:

- Tribal gaming entities that are enterprise funds (or blended component units) report profits that they send to the tribe as transfers on the statement of activities and for fund-level reporting. Those tribes that establish their tribal gaming as discrete component units report net profits sent to the tribe as a nonoperating expense in the gaming enterprise and as revenue in the fund that receives the profits distribution. When the gaming operation is included in a discrete component unit, it may also be necessary for the net assets of the gaming entity to be reflected as an asset of the primary government.

- Best practices of enterprises, including gaming enterprises, are to record the capital assets and depreciation related to the operations of an enterprise on its statement of net position (balance sheet). This facilitates assessment of the complete costs of operations, capital needs, and financial condition of the enterprise. However, accounting standards do not require that capital assets that are used by an enterprise be included on its statement of net position (balance sheet). Instead, such assets could be reported as assets of a tribe's governmental activities. In that case, disclosure of the assets and related depreciation used in enterprise operations would be appropriate.

- Some tribes charge a land lease to their gaming facilities. Such lease expenses are recorded as operating expenses and such agreements and related expenses should be disclosed.

- Some tribal gaming facilities lease gaming slot machines. If the leases only include a revenue share arrangement with no required minimum payments, the leases will generally be reported as operating leases. If a minimum payment is required, further analysis will be needed to determine how the lease should be recorded. Careful consideration of the lease arrangements should be given in accordance with GASB lease accounting to ensure proper recording of such leases.[115]

At times, tribes may construct or expand facilities as a governmental capital expense, then transfer the facility to a gaming entity when completed and certified for occupancy/use. In that case, if the gaming entity is a discretely presented component unit, the movement of the capital assets would be recorded as a capital contribution on the statement of activities. If the gaming entity is a fund of the primary government or blended component unit, the movement would be reported as an intra-entity transfer, on the recipient side and the asset would not be reported in the governmental funds.

Regulatory Requirements

Tribal gaming is subject to regulation by federal and tribal regulators. State regulation may also apply, depending on the terms of tribal/state gaming compacts. Some regulations include:

- The federal gaming regulations require annual audits to be submitted within 120 days of each gaming facilities fiscal year end to the NIGC. Tribes who operate more than one gaming facility may be able to perform one combined audit of all gaming facilities that are under common management. In this case combing financial statement showing the activity of each separate facility should be included as supplemental information to the combined financial report.

- Federal tribal gaming regulations require each tribe to establish a tribal gaming regulatory authority that adopts tribal gaming regulations, standards, and policies that must meet certain minimum requirements. For example, tribal internal control standards address federally established minimum control standards (MICS) for different areas of gaming, such as accounting, surveillance, cashiering, etc. Internal and external audits are to be conducted to provide compliance oversight of minimum internal control standards.

- IGRA provides that tribes and states enter into agreements – compacts – that specify parameters for tribal gaming within the state. Compacts typically require regulatory oversight of gaming activities within the state and certain financial reporting to demonstrate compliance with revenue sharing requirements of compacts.

[115] GASB is considering a change to lease accounting, so readers should be alert for the impact of such changes.

8.5 Tribal Schools

The Bureau of Indian Affairs (BIA) has historically operated tribal elementary and/or high schools on Indian reservations. Under the ISDEAA the implementing regulations allow tribes to contract the federal operations and control of tribal schools. Further, the Indian Education Act in Public Law 95-561 and the Tribally Controlled Schools Act provide for grants for the operation of federally funded tribal schools.

Also, some tribes have contracted with BIA to operate community colleges, per the Tribally Controlled Community College Assistance Act, Public Law 95-471. That base funding is used for operations, administration, and maintenance of facilities. Community colleges must also rely on other federal funding sources, particularly Pell grants to students for tuition costs.

Accounting for Tribal Schools

Tribes operate significant facilities and educational activities, accounted for as special revenue funds, enterprise funds or through separate legal entities. Tribal schools operated as separate legal entities may be established under a tribal ordinance, with tribal elections. Such entities may (or may not) meet the criteria to be reported as component units of the tribe.

Accounting and financial reporting considerations applicable to tribal schools include:

- Typically, tribal school operations and facilities provide comprehensive educational and related services, which require complex accounting and budgeting for departments or functions, such as administrative costs, educational activities, transportation, facilities, housing, etc.

- Most tribal schools receive several federal grants or awards, requiring separate fund accounting and budgeting and reporting.

- Some tribes will supplement their tribal schools for additional operating or capital support. If the support is for a governmental special revenue fund within the tribe's primary government, those amounts are recorded as transfers. If the support is to a discrete component unit, the amount would be recorded as a non-operating revenue contribution from the tribe.

Regulatory Requirements

Tribes typically contract with the U.S. Department of Interior and the Bureau of Indian Education under the ISDEAA. Further, tribes may add other education activities and/or programs funded with other eligible federal grant programs, such as through the U.S. Department of Education. Some regulatory requirements include:

- A single audit and compliance with other applicable federal OMB requirements.
- Tribally contracted schools are required to maintain accreditation, which requires certain standards, programs, and policies to be in place, including certain governance requirements.
- Tribal community colleges rely on other U.S. Department of Education sources for significant funding, including federal Pell Grants to student for tuition reimbursement, which are then subject to Single Audit requirements.

Economic Factors and Next Year's Budgets

The tribal council has considered many factors when setting the fiscal year 2017 budget. The most significant factors are the increasing competition for federal and state grants, the deteriorating road and water infrastructures, capital needs to complete the hotel project, and funding projects that were delayed in 2016. These were taken into account when adopting the government funds and business-type activities budgets.

Amounts available for appropriation in the general fund budget are $31.4 million for the year ending June 30, 2017, an increase of 10% over the final 2016 budget of $28.6 million. The 2017 budget is based on June 30, 2016, actual revenues instead of the prior year's budget. Budgeted expenditures in 2017 are expected to rise nearly 21.7%, to $26.2 million. The increased budgeted expenditures are based on a cost of living adjustment of 2.5% in all areas with the exception of capital outlay. An additional $3.0 million will be used to improve existing primary roads and $1.0 million to replace water lines.

Contacting the Tribe's Financial Management

This financial report is designed to provide tribal members, customers, and investors and creditors with a general overview of the Tribe's finances and demonstrate the Tribe's accountability for the money it receives. If you have any questions about this report or need additional financial information, contact the Tribe's Controller at the Tribal Offices or via email at controller@sample tribe.com.

G.2 Tribe-Wide Financial Statements

Exhibit A

SAMPLE TRIBE
STATEMENT OF NET POSITION
JUNE 30, 2016

	Primary Government			Component Unit
	Governmental Activities	Business-Type Activities	Total	Housing Authority
Assets and Deferred Outflow of Resources				
Assets				
Cash and cash equivalents	$ 5,161,000	$ 4,737,000	$ 9,898,000	$ 1,500,000
Investments	47,760,000	-	47,760,000	1,000,000
Receivables, net	516,000	1,981,000	2,497,000	100,000
Internal balances	(787,200)	787,200	-	-
Inventories	50,000	1,175,000	1,225,000	-
Prepaid expenses and other assets	81,400	164,600	246,000	10,000
Equity interest in component unit	9,324,453	-	9,324,453	-
Investment in movie theatre	4,520,000	-	4,520,000	-
Capital assets				
Land, improvements, and construction in progress	32,250,000	5,250,000	37,500,000	-
Buildings and equipment, net of accumulated depreciation	13,979,554	23,650,000	37,629,554	6,854,453
Total capital assets	46,229,554	28,900,000	75,129,554	6,854,453
Total assets	112,855,207	37,744,800	150,600,007	9,464,453
Deferred outflow of resources- accumulated decrease in fair value of hedging derivative	-	99,840	99,840	-
Total assets and deferred outflow of resources	112,855,207	37,844,640	150,699,847	9,464,453
Liabilities				
Accounts payable and accrued liabilities	2,595,900	1,066,000	3,661,900	90,000
Other current liabilities	388,000	65,000	453,000	-
Unearned revenue	12,530,100	-	12,530,100	50,000
Hedging derivative - interest rate swap	-	99,840	99,840	-
Long-term liabilities				
Due within one year	1,140,720	1,346,580	2,487,300	-
Due in more than one year	5,871,346	8,846,680	14,718,026	-
Total long-term liabilities	7,012,066	10,193,260	17,205,326	-
Total liabilities	22,526,066	11,424,100	33,950,166	140,000
Net Position				
Net investment in capital assets	39,814,554	19,520,000	59,334,554	6,854,453
Restricted for				
Future governmental operations	17,620,000	-	17,620,000	-
Economic development	6,210,000	-	6,210,000	-
Debt service	1,000,000	1,250,000	2,250,000	-
Community development projects	-	-	-	2,470,000
Unrestricted	25,684,587	5,650,540	31,335,127	-
Total net position	$ 90,329,141	$ 26,420,540	$ 116,749,681	$ 9,324,453