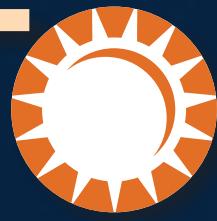


# the NAFOA **NAVIGATOR**



SPRING 2023

**NAFOA** *Welcomes*  
**Indian Country** *to*  
*Washington, DC*



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# Presidential Welcome

**Sheku Members and Supporters of NAFOA,** Welcome to Washington D.C. and thank you for attending our 41st Annual Conference! As you all know, there is no better time for Indian Country to advance our objectives. Coming to the nation's capital allows us to work together and collectively envision the next steps for Indian Country. At this Conference, our agenda will provide the latest Tribal financial opportunities, management strategies, as well as federal updates and guidance. I want to thank our Tribal leaders and member tribes for their continued support. We appreciate the increased growth and participation of our member tribes. As our economies in Indian Country continue to grow, NAFOA will be here to support them.

The last Congress saw significant legislative victories for Indian Country with ample funding opportunities in the American Rescue Plan Act (ARPA), the Bipartisan Infrastructure Law, and the Inflation Reduction Act. While each of these laws provided increased funding, we want Tribal issues to continue to be part of the greater discussion for this Congress. Our policy team has been active on Capitol Hill advocating for tribes. We are happy to have officials from the federal

government here to discuss the long-term policy goals for Indian Country.

We are proud to announce the largest and most diverse class for our 2023 Leadership Summit. We encourage you to meet and welcome the twelve young leaders selected to join the latest cohort. This is our fifth year hosting the Leadership Summit and the sustainability of this annual program is only possible with the direct support of our NAFOA community. Thank you for your contribution in making the summit a valuable experience for future tribal leaders.

I look forward to another engaging conference that provides important connections and collaborations.

Thank you to our member tribes, corporate sponsors, federal partners, and conference volunteers for making NAFOA events like this possible. Our Board of Directors and the NAFOA staff are grateful for your continued support and I am grateful for the opportunity to serve as your President.



Yawako,  
Cristina Danforth  
NAFOA Board President

Work with a team  
that understands  
Indian Country



**Wells Fargo is a proud sponsor of the 2023 NAFOA Spring Conference.** We salute NAFOA and its mission to grow tribal economies and strengthen tribal finance. Wells Fargo continues to be committed to supporting organizations that bring leadership to our community, having done so through our strong support of tribal economies for more than 60 years.

Dawson Her Many Horses  
Head of Native American Banking  
Commercial Banking  
702-791-6583  
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# 105(l) Leases: It's just the beginning.

When our Native American clients with ISDEAA funding agreements ask about long-term financing opportunities, the answer is simple: Yes. But bringing capabilities specific to 105(l) leases is just one way we help Tribes as strategic advisors.

Other areas of our expertise include raising capital for economic development and governmental infrastructure; comprehensive treasury services for Tribal Governments and their Enterprises; and both long- and short-term investment management.

Key has delivered customized financial solutions to Native American Tribes for more than 60 years and is a trusted resource for more than 200 Tribes and Tribal Enterprises across the country.

## Let's get started

To discover your full financial potential, contact us today or find us at the NAFOA Spring Conference.

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For more information, visit **key.com/nativeamerican**.



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# NAFOA Leadership



## President

Cristina Danforth, Oneida Nation

## 1st Vice President

VaRene Martin, Thlophlocco Tribal Town, Mvskoke (Creek) Nation

## 2nd Vice President

Celina Phair, Lummi Nation

## Treasurer

Hattie Mitchell, Prairie Band Potawatomi Nation

## Secretary

Melanie Benjamin, Mille Lacs Band of Ojibwe

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# Agenda At-A-Glance

## Sunday, April 23, 2023

4:00 PM to 7:00 PM	Registration	Potomac Ballroom Foyer
5:00 PM to 7:00 PM	Member Tribe Reception and Meeting	Anacostia DE

## Monday, April 24, 2023

7:30 AM to 8:30 AM	Registration Breakfast Exhibit Hall	Potomac Ballroom Foyer Rock Creek Ballroom
8:30 AM to 11:00 AM	<b>General Session</b>	Potomac Ballroom
11:00 AM to 11:30 AM	<b>Break</b>	Rock Creek Ballroom
11:30 AM to 12:30 PM	<b>Breakout Sessions</b>  Decline of the Declination Letter The Inside Scoop on Access to Capital Controlling Costs of Tribal Projects	Anacostia DE River Birch Anacostia F
12:30 PM to 2:30 PM	<b>Lunch</b>	Potomac Ballroom
2:30 PM to 3:30PM	<b>Breakout Sessions</b>  Energizing Economic Development The Arc of a New Market Deal Tax Reform on the Horizon	Anacostia DE River Birch Anacostia F
3:30 PM to 4:00 PM	<b>Break</b>	Rock Creek Ballroom
4:00 PM to 5:00 PM	Cybersecurity: Protect Your Tribe's Assets  Remote, Not Distant: Creating an Inclusive Workplace	Anacostia DE River Birch
5:15 PM to 7:15 PM	President's Reception	Anacostia Ballroom Foyer

## Agenda At-A-Glance (continued)



### Tuesday, April 25, 2023

7:30 AM to 8:30 AM	Registration Breakfast Exhibit Hall Women's Leadership Breakfast	Potomac Ballroom Foyer Rock Creek Ballroom River Birch
8:30 AM to 11:00 AM	<b>General Session</b>	Potomac Ballroom
11:00 AM to 11:30 AM	<b>Break</b>	Rock Creek Ballroom
11:30 AM to 12:30 PM	<b>Breakout Sessions</b>	
	Increasing the Speed Limit...on Tribal Broadband	Anacostia DE
	T-T-A-C in 2023	River Birch
	The Auditors are Coming!	Anacostia F
12:30 PM to 2:30 PM	<b>Leadership Awards Luncheon</b>	Potomac Ballroom
2:30 PM to 3:30 PM	Building the Trust for Minor's Trusts Tribal Data Sovereignty and Jurisdiction Be in the Zone for Foreign Trade	Anacostia DE River Birch Anacostia F
3:30 PM to 4:00 PM	<b>Break</b>	Rock Creek Ballroom
4:00 PM to 5:00 PM	Growing the Green: Banking and Cannabis Getting the Most from GWE	Anacostia DE River Birch
5:30 PM to 8:00 PM	<b>Closing Reception</b>	Astro Beer Hall

## social media

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# CPE FAQ

## **Can I earn CPE credits at NAFOA's 41st Annual Conference?**

Yes. The majority of the general and breakout sessions are eligible for CPE credits. Total CPE credits will be based on the final conference agenda, but the full program will be worth a minimum of 10 CPE credits.

## **How do I request a CPE Certificate to prove I earned credits?**

There is a CPE Worksheet at the registration desk. Fill out the requested information, including the e-mail address to send the certificate to, and turn it in prior to leaving the conference. The certificate will be e-mailed to you within two weeks of the conference concluding. You may also e-mail the certificate to [christina@nafoa.org](mailto:christina@nafoa.org).

## **How do I keep track of the credits I earn at this conference?**

There is a CPE Worksheet at the registration desk. Fill out the requested information, and during the conference keep track of the sessions you attend. Tally up the total minutes you attended, divide by 50, and round down to determine the total number of credits you will earn.

## **Do I have to sign in at each session?**

Yes, there is a sign-in sheet in each session room. At the start of each session a sign in sheet will begin to circulate around the room. In addition, one is on the AV table. In order to receive credit for all the sessions and instruction time you attend, you must sign the attendance sheets. In addition, you must indicate if you entered the session late or left early. In accordance with NASBA requirements, a NAFOA staff member or volunteer will be on-site in each room to monitor attendance.

## **I forgot to sign during one of the sessions; do I still have a chance to complete this task?**

Please come to the registration desk and speak to a NAFOA staff member about this.

### **General program information:**

The program level is intermediate, no advanced preparation required, and the delivery method is Group-Live. Program prerequisites are a basic understanding of tribal finances and the financial goals of your tribe.

### **Learning Objectives**

- Learn about declination letters and when they are necessary and how to structure your project when they are not.
- Learn at least two different government funding opportunities concerning access to capital for Tribal Governments.
- Understand how to implement at least three effective strategies to save costs on tribal projects.
- Learn at least two funding and two finance opportunities for renewable energy projects.
- Learn about New Market Tax Credits and at least two ways to use them effectively throughout every stage of the deal.
- Hear about the latest updates concerning upcoming tax reform and tax legislation that directly concerns Indian country and Tribal governments.
- Learn about at least three different forms of cyber attacks and how both employees and managers can spot them and ensure their networks are safe.
- Learn at least two ways your business or organization can effectively create an inclusive workspace and support employees from diverse backgrounds.



- Discover at least two strategies tribal governments can use to understand their community's overall needs and build a broadband network that can match this.
- Learn about the latest updates from TTAC and their plans for the future.
- Learn how to prepare for an audit and at least two things to do if your tribal government is selected.
- Understand the most effective strategies to ensure your community is getting the most from their Minor's Trust Funds.
- Learn about tribal jurisdiction as it relates to data and online economic development and how Tribes can protect their data in the digital world.
- Learn how Tribes are using foreign trade zones to increase their economic development and how your tribe could benefit from them.
- Find out how to navigate through obstacles as it relates to banking and financing Tribal cannabis projects.
- Learn about the Tribal General Welfare Exclusion Act of 2014 and how tribes can establish their GWE program correctly.
- Learn about the Supreme Court cases that will be decided soon and their impacts on Tribal sovereignty.
- Understand the impact that disasters can have on Tribal government and at least two strategies in implement to best recover financially after a disaster has been declared.
- Understand the impacts of the latest moves the Federal Reserve has made to raise interest rates and what their impact will be on the economy at large.
- Learn from Tribal Leaders on how Tribes can collect and leverage their data in a meaningful way to add to greater discussions on sovereignty and tribal finance.
- Learn about the latest programs the Treasury has available for Tribal governments to apply for and the role of the Office of Tribal and Native Affairs.

Please visit [www.nafoa.org](http://www.nafoa.org) for the full program agenda, registration information, etc. If you have questions regarding CPE credits, or for more information regarding refund, complaint and program cancellation policies, please contact Christina Morbelli at [Christina@nafoa.org](mailto:Christina@nafoa.org).



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# Conference **Agenda**

## April 23rd

### ■ 4:00 PM - 7:00 PM

#### **Registration**

*Potomac Ballroom Foyer*

### ■ 5:00 PM - 7:00 PM

#### **Member Tribe Meeting/Reception**

*River Birch*

In order to attend the member tribe meeting, you need to be an employee of either the tribe or a wholly-owned tribal enterprise. In addition, you must be representing the tribe or enterprise at the conference.

## April 24th

### ■ 7:30 AM - 5:00 PM

#### **Registration**

*Potomac Ballroom Foyer*

### ■ 7:30 AM - 8:30 AM

#### **Breakfast**

*Rock Creek Ballroom*

### ■ 8:30 AM - 11:00 AM

#### **General Session**

*Potomac Ballroom*

### **Opening Prayer and Cultural Sharing**

#### **Opening Prayer:**

Rico Newman, Elder, Choctico Band of Indians

#### **Presentation of Colors:**

NCR-NACG: National Capital Region-Native American Color Guard

#### **Cultural Sharing:**

Ralph & Dennis Zotigh, The Zotigh Singers

### **NAFOA Welcome Remarks**

**Cristina Danforth**, President, NAFOA Board of Directors

### **Conference Co-Chair Remarks**

Key Bank, Wells Fargo

### **Sovereignty Strategies for the Current Court**

Last year, the Supreme Court ignored both precedent and tribal sovereignty with their decision on *Oklahoma v Castro Huerta*. This year alone, the Supreme Court will determine cases on affirmative action in college admissions, the Indian Child Welfare Act (ICWA), and a tribal related bankruptcy case. All of these cases have potential to determine the scope of tribal sovereignty and the federal government's influence. Panelists will discuss the courts and what's at stake for Indian Country as well as what strategies tribes are implementing to prepare for these decisions.

*CPE Field of Study: Specialized Knowledge - Technical*

#### **Speakers:**

**Christine Swanick**, Partner, Sheppard Mullin Richter & Hampton LLP

**Riyaz Kanji**, Founding Partner, Kanji & Katzen P.L.L.C.

## Conference Agenda (continued)



**Disasters and the Impact on Tribal Finance** Natural disasters have the potential to impact Tribes throughout the United States. The impacts can cause economic devastation that takes years to recover from financially. Tribal Leaders will discuss their experiences dealing with natural disasters, what they learned from the experience, and the steps they took to help their communities recover financially.

*CPE Field of Study: Specialized Knowledge - Technical*

**Moderator:**

**Melanie Benjamin**, Chief Executive, Mille Lacs Band of Ojibwe

**Speakers:**

**Serrell Smokey**, Chairman, Washoe Tribe of Nevada/California

**Russell "Buster" Atteberry**, Chairman, Karuk Tribe

**Secretary Granholm Discusses Unlocking Energy Development in Indian Country**

U.S. Secretary of Energy Jennifer Granholm is leading the Department of Energy's effort to advance cutting-edge clean energy and decarbonization technologies that can create millions of good-paying jobs and form the foundation for an equitable clean energy future. Secretary Granholm will share her thoughts on tribal energy development, the resources and programs available through the Department to help increase the number of tribal energy projects, and the administration's priorities in 2023 and beyond.

*CPE Field of Study: Specialized Knowledge - Technical*

**Speaker:**

**Jennifer M. Granholm**, Secretary, U.S. Department of Energy

**■ 11:00 AM- 11:30 AM**

**Break**

*Rock Creek Ballroom*

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**Breakout Sessions**

**■ 11:30 AM - 12:30 PM**

**Decline of the Declination Letter**

*Anacostia DE*

Declination letters have become a regular part of doing business in Indian country. However, current NIGC guidance suggests they are overused. Waiting on declination letters can delay projects and have an impact on financing. Hear from panelists what they are, when they are necessary, and how to structure your project without them.

*CPE Field of Study: Specialized Knowledge - Technical*

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## Conference Agenda (continued)



### ■ 11:30 AM - 12:30 PM

#### **The Inside Scoop on Access to Capital**

*River Birch*

The Small Business Administration (SBA), in coordination with White House Council on Native American Affairs (WHCNA) and with involvement from the Departments of Commerce, Energy, Interior, the Treasury, Agriculture, and others have announced a new access to capital initiative with the goal of increasing awareness, access, and utilization of financing opportunities for Tribal Nations. Find out what you and your tribal government will need to know about the opportunity going forward.

*CPE Field of Study: Finance - Technical*

### ■ 11:30 AM - 12:30 PM

#### **Controlling Costs of Tribal Projects**

*Anacostia F*

Market factors continue to increase the costs of tribal construction projects, forcing Tribes to consider shrinking the project scope. As projects are becoming more costly to complete, Tribal leaders are finding ways to mitigate these costs. Learn from panelists how to implement effective strategies to save costs on your Tribal projects.

*CPE Field of Study: Business Management & Organization - Non-Technical*

### ■ 12:30 PM - 2:30 PM

#### **Lunch**

*Columbia BCD*

Blessing:

Rico Newman, Elder, Choptico Band of Indians

Cultural Sharing:

Ralph & Dennis Zotigh, The Zotigh Singers

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Umpqua Bank

## Conference Agenda (continued)



### **Breakout Sessions**

#### **■ 2:30 PM - 3:30 PM**

##### **Energizing Economic Development**

*Anacostia DE*

Energy infrastructure is a significant component of Indian Country's community and economic growth. Planning must include ways to improve reliability, resiliency, and affordability. The Inflation Reduction Act of 2022 provides Tribal enterprises with many new funding provisions to pursue, specifically clean technologies such as solar, battery energy storage, green hydrogen, and microgrids. Panelists will discuss how to use new and existing funding sources to take advantage of the shift to renewable energy.

*CPE Field of Study: Finance - Technical*

#### **■ 2:30 PM - 3:30 PM**

##### **The Arc of a New Market Deal**

*River Birch*

Since their introduction in 2000, New Market Tax Credits (NMTC) have been an effective way for Tribes to draw investment into Indian Country with more than \$57 billion of credits awarded. However, more information is needed about the latter stages of the deal. Speakers will discuss how investors and tribal leaders can make the most out of their NMTCs throughout the entire arc of the deal.

*CPE Field of Study: Specialized Knowledge - Technical*

#### **■ 2:30 PM - 3:30 PM**

##### **Tax Reform on the Horizon**

*Anacostia F*

Tax parity with states is an important issue for tribal governments and enterprises. Find out what is new with tax reform policy, what legislation and proposals Congress is considering, and how it might impact your tribe or tribal business. Hear from experts on these important changes and what to know going forward.

*CPE Field of Study: Taxes - Technical*

#### **■ 3:30 PM- 4:00 PM**

##### **Break**

*Rock Creek Ballroom*

### **Sponsored by:**

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## Conference Agenda (continued)

### Breakout Sessions

#### ■ 4:00 PM - 5:00 PM

##### **Cybersecurity: Protect Your Tribe's Assets**

*Anacostia DE*

When was the last time you had someone try to penetrate your IT network to make sure your network and data is secure? All networks are vulnerable to outside attacks and remote work can increase the risk of cyberattacks. Employees need to be properly trained on identifying phishing and social engineering. Hear about cybersecurity events that have occurred and how tribal governments can ensure their networks and data are secure.

*CPE Field of Study: Computer Software & Applications - Non-Technical*

#### ■ 4:00 PM - 5:00 PM

##### **Remote, Not Distant: Creating an Inclusive Workplace**

*River Birch*

Retaining talent and finding solutions for limited applicant pools have been challenging for many employers. Workplace trends including remote or hybrid work, LGBTQ+ inclusivity, and accessibility have forced tribal organizations to rethink how they manage their workforce. In this session, panelists will discuss a variety of talent trends that can be implemented to create supportive policies and increase the employer value proposition, engagement, and retention.

*CPE Field of Study: Personnel/Human Resources - Non-Technical*

#### ■ 5:15 PM - 7:15 PM

##### **President's Reception**

*Anacostia Ballroom Foyer*

### April 25th

#### ■ 7:30 AM - 5:00 PM

##### **Registration**

*Potomac Ballroom Foyer*

#### ■ 7:30 AM - 8:30 AM

##### **Breakfast**

*Rock Creek Ballroom*

#### ■ 7:30 AM - 8:30 AM

##### **Women's Leadership Breakfast**

*River Birch*

This breakfast will provide a forum for women tribal leaders and others in key tribal finance positions to exchange ideas, share experiences, and inspire each other to achieve their goals.

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#### ■ 7:30 AM - 11:30 AM

##### **Board of Directors Voting**

*Potomac Ballroom Foyer*

## Conference Agenda (continued)



■ 8:30 AM - 11:00 AM

### General Session

*Potomac Ballroom*

#### Opening Prayer and Cultural Sharing

Opening Prayer:

Lance Fisher, Northern Cheyenne Tribe of Montana

Cultural Sharing:

Ralph & Dennis Zotigh, The Zotigh Singers

#### NAFOA Board Campaign Speeches

NAFOA is hosting elections for three of the five board positions in the organization. This year we will hear from candidates wishing to hold the First Vice President, Secretary, and Treasurer positions on the Board.

#### U.S. Department of the Treasury Update

U.S. Treasurer Chief Lynn Mallerba and Director Fatima Abbas, the first director of the newly created Office of Tribal and Native Affairs, will provide an update on recent developments within the Treasury. Treasurer Mallerba will provide a general overview. Director Abbas will provide information on programs which still have funds available, including details on how to apply for any open programs, and deadlines for obligating the remaining recovery funds.

*CPE Field of Study: Specialized Knowledge - Technical*

#### Speakers:

**Chief Lynn Mallerba**, Treasurer of the United States

**Fatima Abbas**, Director, Office of Tribal and Native Affairs, U.S. Department of the Treasury

#### How Can Tribes Use and Leverage Their Data

Tribal leaders have always relied upon data and traditional knowledge to make decisions to support the wellbeing and vitality of Indian Country. As we live in an increasingly global world, data is becoming an essential tool to tell our economic story to our communities, lawmakers, regulators, investors, partners and more. High quality data and analysis can shape policy decisions, attract investment, and dispel myths in Indian Country. Leaders from different sectors will discuss why data matters, what we are already sharing, and why we should be controlling the discussion by leveraging the data we feel is important.

*CPE Field of Study: Specialized Knowledge - Technical*

#### Speakers:

**Dawson Her Many Horses**, SVP & Head of Native American Banking, Wells Fargo Commercial Banking

**Casey Lozar**, Vice President, Federal Reserve Bank of Minneapolis-Center for Indian Country Development

#### Hear from Senator Catherine Cortez Masto (D-NV)

Senator Cortez Masto (D-NV) discusses her priorities for Indian Country in 2023. Learn about the Senator's legislative goals for the 118th Congress and her work to address the issues facing tribes today.

## Conference Agenda (continued)



### Recession or Recovery?

The economy keeps growing, unemployment is falling, inflation doesn't seem to be going away, and the Federal Reserve is hiking interest rates higher and faster than we've seen in decades. Are we headed for a recession or a strong recovery? What will high interest rates mean for a nation and families who are deeply in debt? What's driving inflation and when will it stop? How should Tribal governments and members navigate this economy?

Leading macroeconomists across the political spectrum will debate these and other questions in a lively discussion on the main stage.

*CPE Field of Study: Specialized Knowledge - Technical*

#### Moderator:

**Arron Klein**, Economic Advisor, NAFOA

#### Speakers:

**Mark Calabria**, Senior Advisor, Cato Institute

**Mark Zandi**, Chief Economist, Moody's Analytics

### ■ 11:00 AM - 11:30 AM

#### Break

*Rock Creek Ballroom*

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### Breakout Sessions

#### ■ 11:30 AM - 12:30 PM

##### **Increasing the Speed Limit...on Tribal Broadband**

*Anacostia DE*

A successful broadband network requires a comprehensive plan to address the needs of the community. It's important for Tribal governments to design a network to meet their community's overall needs. Panelists will discuss strategies for building a network in manageable pieces to create an efficient and fully operational network.

*CPE Field of Study: Information Technology - Technical*

#### ■ 11:30 - 12:30 PM

##### **T-T-A-C in 2023**

*River Birch*

The Treasury Tribal Advisory Committee (TTAC) held its first in person meeting since the beginning of the pandemic on October 26, 2022. The TTAC plans to hold at least 3 periodic meetings in 2023. Hear updates from members of the TTAC and Treasurer Lynn Malerba regarding general welfare exclusion, dual taxation, and tribal pensions sub-committees and other issues related to the work of the TTAC.

*CPE Field of Study: Taxes - Technical*



## Conference Agenda (continued)

### ■ 11:30 AM - 12:30 PM

#### **The Auditors are Coming!**

*Anacostia F*

Investment into Indian Country reached unprecedented heights over the last few years and auditors will soon be coming to Tribal nations. What are the best ways to ensure your tribe is ready in case you happen to be selected? Learn from panelists how to prepare for upcoming audits.

*CPE Field of Study: Auditing (Governmental) - Technical*

### ■ 12:30 PM - 2:30 PM

#### **Leadership Awards Luncheon**

*Potomac Ballroom*

Blessing:

Lance Fisher, Northern Cheyenne Tribe of Montana

Please join us as we honor tribal leaders and finance professionals for their outstanding contributions to improving economic conditions in Indian Country.

### **Breakout Sessions**

#### ■ 2:30 PM - 3:30 PM

#### **Building the Trust for Minor's Trusts**

*Anacostia DE*

Tribes have developed effective practices for managing their Minor's Trust Funds. The panel will discuss setting up the funds, fiduciary responsibilities, and strategies for dispersing the funds. Learn about policies that have been proven successful in achieving long-range goals for beneficiaries.

*CPE Field of Study: Specialized Knowledge - Technical*

#### ■ 2:30 PM - 3:30 PM

#### **Tribal Data Sovereignty and Jurisdiction**

*River Birch*

With all of our information online, the jurisdiction of information is more critical to tribes and tribal members than ever. What do tribal leaders need to know to ensure their data sovereignty and jurisdiction are protected? This panel will explore key issues in sovereignty as it relates to data, online economic development, and the implementation of Tribal data codes.

*CPE Field of Study: Specialized Knowledge - Technical*



## Conference Agenda (continued)

### ■ 2:30 PM - 3:30 PM

#### **Be in the Zone for Foreign Trade**

*Anacostia F*

Tribes can create tribal corporations to take advantage of foreign trade zones (FTZ). The benefits for tribes can include new revenue streams and employment opportunities through manufacturing and major cost savings through deferred or reduced custom duties. Learn how tribes can successfully navigate the challenges of creating FTZ programs and the current economic development opportunities generated by it.

*CPE Field of Study: Specialized Knowledge - Technical*

### ■ 3:30 PM - 4:00 PM

#### **Break**

*Rock Creek Ballroom*

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### **Breakout Sessions**

#### ■ 4:00 PM - 5:00 PM

#### **Growing the Green: Banking and Cannabis**

*Anacostia DE*

Tribal participation in the cannabis industry is growing more than ever. Questions remain around seed capital, banking, and comingling of funds from gaming operations. Panelists will discuss how to navigate the obstacles and remain compliant with conflicting guidance.

*CPE Field of Study: Finance - Technical*

#### ■ 4:00 PM - 5:00 PM

#### **Getting the Most from GWE**

*River Birch*

The Tribal General Welfare Exclusion Act of 2014 excludes general welfare payments to members of Indian Tribes from the definition of income in the Internal Revenue Code. However almost a decade later, there is still much confusion about the general welfare exclusion (GWE) and how to use it. Panelists will discuss the Act, how to establish a GWE program, and the safe harbor provisions.

*CPE Field of Study: Accounting (Governmental) - Technical*

#### ■ 5:30 PM - 8:00 PM

#### **Closing Reception at Astro Beer Hall**

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# Conference Speakers

**Fatima Abbas**  
Director, Office of Tribal and Native Affairs  
U.S. Department of the Treasury

**W. Ron Allen**  
Tribal Chair/CEO  
Jamestown S'Klallam Tribe

**Russell "Buster" Attebery**  
Chairman  
Karuk Tribe

**Patrick Bender**  
Senior Portfolio Strategist  
KeyBank

**Melanie Benjamin**  
Chief Executive  
Mille Lacs Band of Ojibwe

**Rodney Butler**  
Chairman  
Mashantucket Pequot Tribal Nation

**Nick Butler**  
Senior Vice President  
Umpqua Bank

**Mark Calabria**  
Senior Advisor  
Cato Institute

**Latisha Casas**  
Treasurer  
San Manuel Band of Mission Indians

**Sam Cohen**  
General Counsel  
Santa Ynez Band of Chumash Indians



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**For more information, please contact:**  
Kevin Chambers, Senior Vice President, Tribal Practice Leader  
Mobile (512) 461-5903 | [kevin.chambers@lucenthealth.com](mailto:kevin.chambers@lucenthealth.com)

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## Conference Speakers (continued)



**Senator Catherine Cortez Masto**  
(D-NV)

**Adam Crepelle**  
Assistant Professor  
Antonin Scalia Law School at  
George Mason University

**Jody Cummings**  
General Counsel  
Mashantucket Pequot Tribal Nation

**Shaun Deschene**  
Director of Native American  
Business Development  
U.S. Department of Commerce

**Chad Duval**  
Partner  
Moss Adams LLP

**Virginia Elves**  
Accountant  
Stillaguamish Tribe of Indians

**Amanda Erickson**  
Senior Consultant, Talent  
Management  
Wipfli LLP

**Brock Eubanks**  
Partner  
Connect Advisors, LLC

**Camille Evans**  
Senior Analyst, U.S. Foreign-Trade  
Zones Board  
U.S. Department of Commerce

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## Conference Speakers (continued)



### **Caroline Frauman**

Tax Counsel  
Office of Congresswoman Gwen  
Moore (WI-04)

### **Jason Fuller**

Vice President  
Providence First Trust Company

### **Juan Garcia**

Financial Officer  
Jamul Indian Village

### **Jennifer Granholm**

Secretary  
U.S. Department of Energy

### **Brian Grayek**

IT & Cybersecurity Consulting  
Director  
REDW LLC

### **Dawson Her Many Horses**

SVP & Head of Native American  
Banking  
Wells Fargo Commercial Banking

### **Lacey Horn**

CEO  
Native Advisory LLC

### **Riyaz Kanji**

Founding Partner  
Kanji & Katzen P.L.L.C.

### **Aaron Klein**

Economic Advisor  
NAFOA

### **Sean Lawrence**

Director, Office of Economic Policy  
Lummi Indian Nation

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Some of our attorneys have previously worked for the U.S. Dept. of the Interior and directly for tribal governments as in-house tribal attorneys.



**Christine Swanick**  
cswanick@sheppardmullin.com



**Wilda Wahpepah**  
wwahpepah@sheppardmullin.com

**Tribal Team Recognitions:** Practice is ranked nationally by **Chambers USA 2022** for Native American Law; Christine Swanick and Wilda Wahpepah ranked “Leading Individual” in Native American Law by **Chambers USA 2022**; Christine Swanick and Wilda Wahpepah listed in 2023 Best Lawyers in America for Native American Law by **U.S. News and Best Lawyers**.

**Firm Recognitions:** Achieved 100% rating on **Human Rights Campaign's 2022 Corporate Equality Index**; recognized by **Yale Law Women** in 2022 on its lists of Top Ten Firms for both Gender Equality and Family Friendliness; **Mansfield Certification 5.0 Plus** designation in 2022 in recognition of our diversity in leadership and hiring; **American Lawyer** Top Firms for Diversity/2022 Diversity Scorecard; and **Law360** 100 Best Law Firms for Minority Attorneys.

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## Conference Speakers (continued)



**Mike Lettig**  
National Executive  
KeyBank Native American  
Financial Services

**John Lewis**  
Energy Transition

**Sorhna Li**  
Government Liaison  
Scotts Valley Band of Pomo Indians

**Nicholas Lovesee**  
Director of Policy  
NAFOA

**Casey Lozar**  
Vice President  
Federal Reserve Bank of  
Minneapolis - Center for Indian  
Country Development

**Kurt Lynch**  
Policy Advisor  
Senator Catherine Cortez Masto  
(D-NV)

**Chief Lynn Malerba**  
Treasurer of the United States

**Ken Mason**  
Advisory Services Director  
Walker & Armstrong, LLP

**Christine Masse**  
Partner  
Miller Nash LLP

**Jennifer Miernicki**  
Partner  
Faegre Drinker Biddle & Reath LLP

**Kenneth Parsons**  
Partner  
Holland & Knight LLP



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## Conference Speakers (continued)



**Scott Pinover**  
Director – Northeast New Markets  
Tax Credit Group  
Wells Fargo Community Lending  
and Investment

**Kristian Poncho**  
Secretary-Treasurer  
Coushatta Tribe of Louisiana

**Anthony Morgan Rodman**  
Executive Director  
White House Council on Native  
American Affairs

**Adam Rose**  
Director of Partnerships and  
Growth  
Travois

**Anita Shah**  
Partner  
Moss Adams LLP

**Bobby Simpson**  
CIO  
Finley & Cook, P.L.L.C.

**Serrell Smokey**  
Chairman  
Washoe Tribe of Nevada/California

**Christine Swanick**  
Partner  
Sheppard Mullin Richter &  
Hampton LLP

**David Tam**  
CEO, Grey Snow Management  
Solutions, LLC  
Iowa Tribe of Kansas & Nebraska



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## Conference Speakers (continued)



**Carey Thurston**  
CFO  
Samish Indian Nation

**Sherry Treppa**  
Chairwoman  
Habematolel Pomo of Upper Lake

**H Trostle**  
Senior Policy Analyst  
Federal Reserve Bank of  
Minneapolis - Center for Indian  
Country Development

**Stephanie Williams**  
CFO  
Naskila Gaming

**Mark Zandi**  
Chief Economist  
Moody's Analytics

**Gwen Zech**  
Senior Manager  
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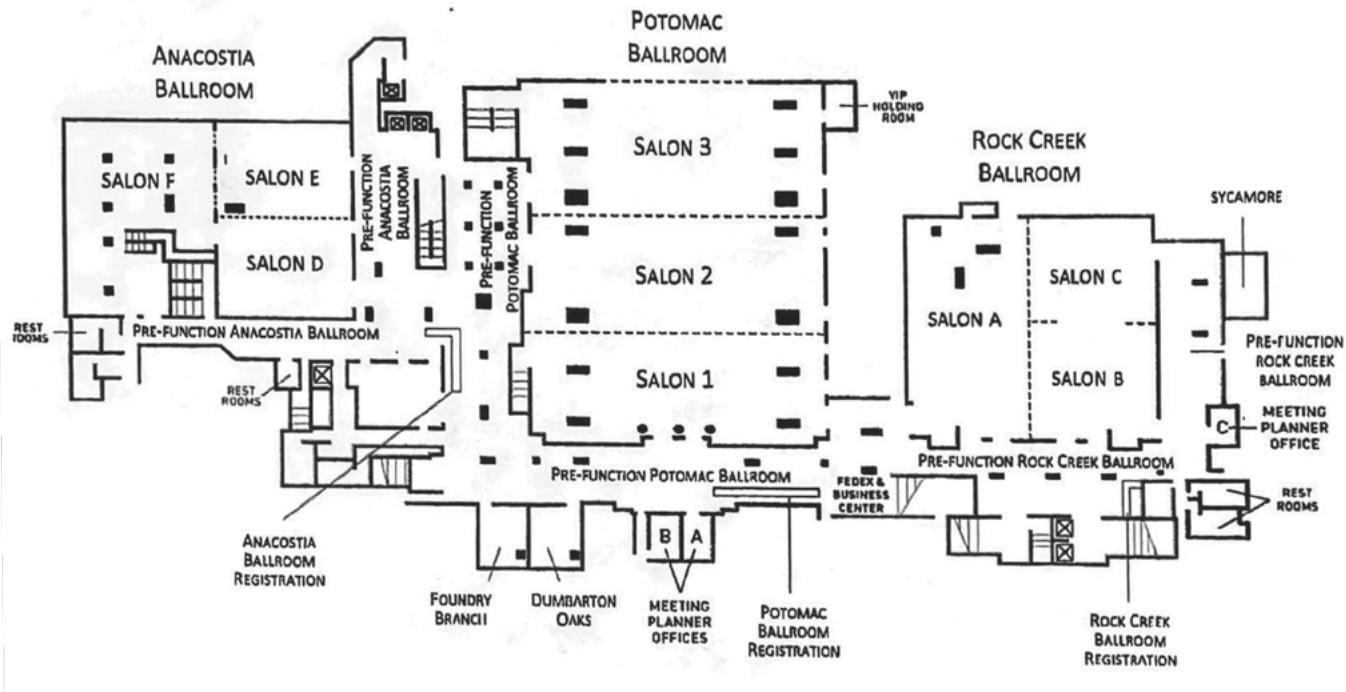
# Member Tribes

Absentee Shawnee Tribe  
Agua Caliente Band of Cahuilla Indians  
Ak-Chin Indian Community  
Alabama-Coushatta Tribe of Texas  
Barona Band of Mission Indians  
Berry Creek Rancheria of Maidu Indians of California  
Big Valley Rancheria Band of Pomo Indians  
Blue Lake Rancheria Tribe of California  
Buena Vista Rancheria of Me-Wuk Indians  
Cahuilla Band or Indians  
Catawba Indian Nation  
Cedar Band of Paiutes  
Central Council Tlingit & Haida Indian Tribes of Alaska  
Cherokee Nation  
Chickasaw Nation  
Choctaw Nation of Oklahoma  
Citizen Potawatomi Nation  
Coeur D'Alene Tribe  
Colusa Indian Community Council - Cachil Dehe Band of Wintun Indians  
Confederated Tribes & Bands of the Yakama Nation  
Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians  
Confederated Tribes of Grand Ronde  
Confederated Tribes of Siletz Indians  
Confederated Tribes of the Colville Reservation  
Confederated Tribes of the Umatilla Indian Reservation  
Coquille Indian Tribe  
Coushatta Tribe of Louisiana  
Cow Creek Band of Umpqua Tribe of Indians  
Cowlitz Indian Tribe  
Coyote Valley Band of Pomo Indians  
Crow Creek Sioux Tribe  
Delaware Nation  
Eastern Band of Cherokee Indians  
Eastern Shawnee Tribe of Oklahoma  
Elk Valley Rancheria, California  
Enterprise Rancheria of Maidu Indians of California  
Federated Indians of Graton Rancheria  
Flandreau Santee Sioux Tribe  
Forest County Potawatomi Community  
Fort McDowell Yavapai Nation  
Gila River Indian Community  
Gun Lake (Match-E-Be-Nash-She-Wish Band of Pottawatomi)  
Habematolel Pomo of Upper Lake  
Ho-Chunk Nation  
Hualapai Tribe  
Iowa Tribe of Oklahoma  
Jamestown S'Klallam Tribe  
Jamul Indian Village  
Jena Band of Choctaw Indians  
Kaw Nation  
Keniatze Indian Tribe  
Kickapoo Traditional Tribe of Texas  
Kickapoo Tribe of Oklahoma  
Kiowa Tribe of Oklahoma  
La Jolla Band of Luiseño Indians  
Lac Courte Oreilles Tribe  
Lac Vieux Desert Band of Lake Superior Chippewa  
Little Traverse Bay Bands of Odawa Indians  
Lower Elwha Klallam Tribe  
Lumbee Tribe of North Carolina  
Lummi Nation  
Makah Tribe  
Mandan, Hidatsa, & Arikara Nation  
Mashantucket Pequot Tribal Nation  
Mashpee Wampanoag Tribe  
Menominee Indian Tribe of Wisconsin  
Mechoopda Indian Tribe of Chico Rancheria  
Miccosukee Tribe of Indians of Florida  
Middletown Rancheria of Pomo Indians of California  
Mille Lacs Band of Ojibwe Indians  
Mississippi Band of Choctaw Indians  
Mohegan Tribe of Indians of Connecticut  
Morongo Band of Mission Indians  
Muckleshoot Indian Tribe  
Muscogee (Creek) Nation  
Narragansett Indian Tribe  
Nisqually Indian Tribe  
North Fork Rancheria of Mono Indians of California  
Nottawaseppi Huron Band of the Potawatomi  
Ohkay Owingeh  
Omaha Tribe of Nebraska

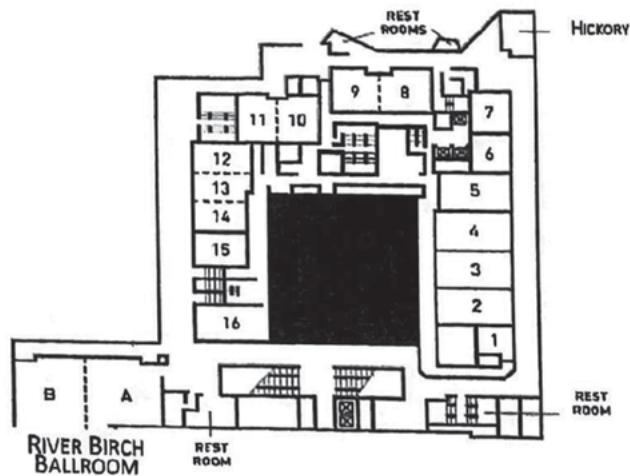
## Member Tribes (continued)

Oneida Nation  
Osage Nation  
Otoe-Missouria Tribe of Oklahoma  
Pala Band of Mission Indians  
Paskenta Band of Nomlaki Indians  
Pauma & Yuima Band of Luiseño Indians  
Pawnee Nation of Oklahoma  
Pechanga Band of Luiseño Indians  
Picayune Rancheria of the Chukchansi Indians  
Poarch Band of Creek Indians  
Pokagon Band of Potawatomi Indians  
Ponca Tribe of Nebraska  
Port Gamble S'Klallam Tribe  
Prairie Band Potawatomi Nation  
Pueblo of Jemez  
Pueblo of Pojoaque  
Pueblo of Santa Ana  
Pueblo of Tesuque  
Puyallup Tribe of Indians  
Quapaw Tribe  
Quinault Indian Nation  
Red Lake Band of Chippewa  
Reno-Sparks Indian Colony  
Rincon Band of Luiseño Indians  
Rosebud Sioux Tribe  
Sac & Fox Tribe of the Mississippi in Iowa  
Sac and Fox Nation of Missouri in Kansas & Nebraska  
Sac and Fox Nation of Oklahoma  
Saint Regis Mohawk Tribe  
Samish Indian Nation  
San Carlos Apache Tribe  
San Manuel Band of Mission Indians  
San Pasqual Band of Mission Indians  
Santa Rosa Band of Cahuilla Indians  
Santa Ynez Band of Chumash Indians  
Scotts Valley Band of Pomo Indians  
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Seminole Tribe of Florida  
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Seneca Nation of Indians  
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Shingle Springs Band of Miwok Indians  
Shinnecock Indian Nation  
Shoshone-Bannock Tribes  
Sitka Tribe of Alaska  
Skokomish Indian Tribe  
Snoqualmie Indian Tribe  
Soboba Band of Luiseño Indians  
Sokaogon Chippewa Community  
Southern Ute Indian Tribe  
Squaxin Island Tribe  
Stockbridge-Munsee Band of Mohican Indians  
Susanville Indian Rancheria  
Squamish Tribe  
Swinomish Indian Tribal Community  
Sycuan Band of the Kumeyaay Nation  
Table Mountain Rancheria  
Thlopthlocco Tribal Town  
Tohono O'odham Nation  
Tulalip Tribes  
Tule River Tribe of California  
Tunica-Biloxi Tribe of Louisiana  
Tuolumne Band of Me-Wuk Indians  
Turtle Mountain Band of Chippewa Indians  
Twenty-Nine Palms Band of Mission Indians  
United Auburn Indian Community of the Auburn Rancheria  
Ute Mountain Ute Tribe  
Walker River Paiute Tribe  
Wampanoag Tribe of Gay Head (Aquinnah)  
Washoe Tribe of Nevada & California  
White Earth Band of Chippewa  
Wichita and Affiliated Tribes  
Wilton Rancheria  
Winnebago Tribe of Nebraska  
Wiyot Tribe  
Yankton Sioux Tribe  
Ysleta del Sur Pueblo  
Yurok Tribe

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To learn more about PNC contact Russ Liebetrau, Native American Gaming & Finance Manager at [russell.liebetraujr@pnc.com](mailto:russell.liebetraujr@pnc.com) / 248.729.8586 or visit [pnc.com/about us](http://pnc.com/about us).



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## DOUGH-NOT MISS THE #NAFOA2023 Closing Reception

Grab your colleagues and join us for an out of this world good time at Astro Beer Hall on **Tuesday, April 25**. Enjoy networking, fun games, and DC's famous Astro Doughnuts & Fried chicken at NAFOA's closing reception.

The reception is from **5:30 pm - 8:00 pm**. Astro Beer Hall is located at 1306 G St, NW and is a short 10-minute walk from the Renaissance Hotel.

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**Walter E. Lamar,**  
President CEO, Lamar Associates

**Walter Lamar** is an enrolled member of the Blackfeet Nation of Montana and a descendent of the Wichita Tribe of Oklahoma. His career in law enforcement included 18 years with the FBI, where he served as a Special Agent/Supervisory Special Agent until year 2000, when he was named Deputy Director of the BIA Office of Law Enforcement Services. In response to the attacks of 911, the Department of the Interior named him Senior Advisor to the Director,

Department of Interior - Office of Law Enforcement and Security, where Walter served to ensure protection of the Nation's dams, monuments and icons. Walter retired from Federal service in 2005 and founded Lamar Associates.

Walter was twice presented the FBI Shield of Bravery for actions taken in the immediate aftermath of the Oklahoma City Federal building bombing and during a running gun battle with an armed felon.

Like his father, Newton Lamar, Walter enjoys photography, particularly shooting photographs of our Native people.

Walter generously donated the use of the photo to NAFOA for our Spring Conference. ■



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## Conference Arts (continued)



### Nadiya Littlewarrior

E-mail: [kiwenkikwe@yahoo.com](mailto:kiwenkikwe@yahoo.com)  
[www.spiritvesselsstudio.com](http://www.spiritvesselsstudio.com)  
(661) 298-3014

Nadiya Littlewarrior was born in Kansas City, Missouri and moved to Texas with her mother, Lucille Ellis, at the age of three (they hopped a freight car). Lu was an award-winning artist and afforded Nadiya the benefit of a very creative atmosphere complete with all the art supplies to fill a child's heart. Nadiya says that her talent comes from "The Creator and Mom."

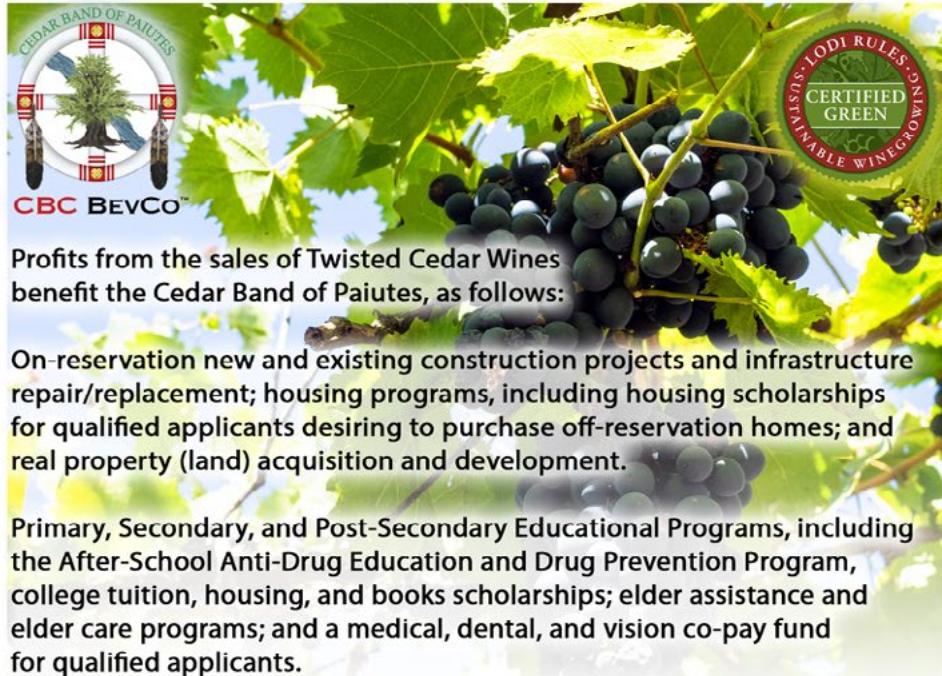
Growing up on a cattle ranch in the South West Texas Panhandle didn't hurt. Says Littlewarrior, "I could stand in the middle of the yard, turn a complete circle and see nothing but horizon in all four directions! This made a very large space for listening and talking to Creator and Mother Earth." At 15, when Nadiya moved to San Angelo, Texas to live with her maternal grandparents, Mr. and Mrs. John O. Whipple, a Potawatomi woman and a Cherokee man...these grandparents instilled in her the importance of a thoughtful, discerning life. Her paternal Grandfather, Bird Buzan, was a full blood Native man born on a reservation in Kansas, was believed to be Sauk/Fox.

Nadiya studied art academically in Texas, Oklahoma, and California as well as private studies with various artists. Six times her people of the Citizen Potawatomi Nation have honored this award-winning artist, known for her gourds around the world. She has been invited and accepted to exhibit her art at the following prestigious locations: Southwest Museum, Antelope Valley Indian Museum, Satwiwa Native American Culture Center & Museum,



Mallard Sheets Gallery, William S. Hart Park & Museum, The City of Lancaster Fine Arts Museum and the Haramokngna Culture Center. Both the Southwest Museum and the Gene Autry Museum of Western Heritage have sold Nadiya's art in the museum gift stores. Nadiya has also been a guest speaker at NASA on two occasions, the Autry National Center, Southwest Museum, Antelope Valley University, Santa Clarita Artist Association and the Daughters of the Indian Wars, Pasadena Chapter.

Her husband, John Davis, inspired the name of her company, SPIRIT VESSELS STUDIO, reminding her that the best way to come up with a name would be to dream on it, as her ancestors did. Nadiya says, "They are Spirit Vessels to me because The Creator makes the Gourd People and puts their spirit in them and I get to dress them with regalia." Spirit Vessels was dreamed into being in 1993. With a history in art and a distinctively Potawatomi/Cherokee heritage, Nadiya Littlewarrior is one of today's most dedicated artists of contemporary Native American Art. Her collectors span the world from China to Spain and include such people as Dr. Joyce Brothers, screenwriter Lisa Atkinson, actress Jennifer Tilly and actors Dennis Haysbert and Troy Evans. ■



#### **Cabernet Sauvignon 2016 Lodi AVA**

Gold Medal Sunset Magazine Intl Wine Competition  
 Silver Medal London Wine Competition  
 Silver Medal San Francisco Chronical Intl Wine Competition

#### **Chardonnay 2018 Lodi AVA**

Wine Enthusiast Best Buy  
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 Silver Medal London Wine Competition  
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#### **Malbec 2019 Lodi AVA**

Wine Enthusiast Best Buy 90 Points  
 Gold Medal London Wine Competition  
 Silver Medal San Francisco Chronicle Intl Wine Competition  
 Silver Medal Orange County Fair Wine Competition

#### **Moscato 2018 Clarksburg AVA**

Wine Enthusiast Best Buy  
 Silver Medal San Francisco Chronicle Intl Wine Competition  
 Silver Medal London Wine Competition

#### **Petite Sirah/Petit Verdot 2018 California AVA**

Silver Medal Orange County Fair Wine Competition  
 Silver Medal London Wine Competition

#### **Pinot Grigio 2019 California AVA**

Silver Medal London Wine Competition

#### **Zinfandel 2018 Lodi AVA**

Gold Medal & Best in Show London Wine Competition  
 Gold Medal Orange County Fair Wine Competition  
 Silver Medal Sunset Magazine Intl Wine Competition

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### **Milford Calamity**

<http://www.milfordcalamity.com/>

Milford Calamity is a self-taught Navajo silversmith who works with sterling silver, copper, gold, turquoise as well as a variety of exotic stones. He loves to exaggerate shapes, textures and colors in his work. He takes pride in incorporating contemporary art with traditional Navajo silversmith techniques. Between traditional sand-casting and silver wire fabricating, Milford aims to bring a fresh new look to the Indigenous jewelry market. He brings an exotic approach to metal work as he utilizes various techniques he's learned over the years. His work is associated with words like edgy, different, creative, bold, vibrant and of course fresh. His motivation and

determination extends beyond any imaginary threshold.

Originally from Steamboat, Arizona Milford grew up on the Navajo Reservation. He maintains strong ties with his traditional values and way of life. This is apparent in his relationship with his family as well as his colleagues. His traditional upbringing as well as the constant support from his family have helped Milford obtain his success and maintain his focus throughout life. Milford acknowledges the importance of being a business owner, however taking time out to appreciate life and remain grounded are equally important. Milford currently resides in Albuquerque with his wife, daughter and their three dogs. ■



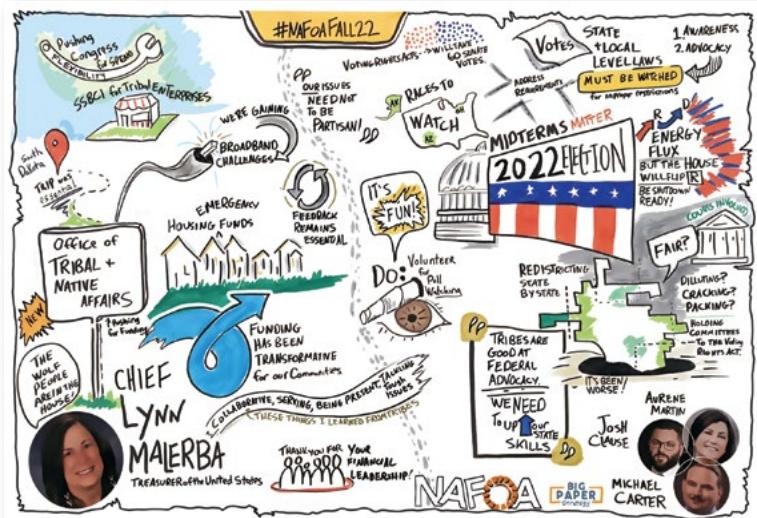
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# Graphic Illustrator



**Matt Orley** of Big Paper Strategy will provide live sketch notes of our general sessions and a selection of our breakout sessions. The best listener in the room, Matt uses big paper, thick markers and exceptional listening skills to create holistic views of the conversations that he hears. Watch Matt's process unfold during the sessions and view the completed drawings in the registration area.

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# Ziibimijwang Farm

**Z**iibimijwang is committed to restoring and strengthening mino-bimaadiziwin (anishinaabe-good life) of the Odawa community through a foundation of indigenous food systems and cultural activities.

The Odawa people, along with the Ojibwa and Bodewadmi peoples, or Anishnaabek have called the Great Lakes home for thousands of years. The Odawa are keepers of the trade and would trade for meat, hides and other goods from the other northern tribes. The Odawa acted as middlemen, carrying out important trades of food and supplies for many tribes. The Odawa grew Mandaaminiak (corn) for trade, as well as produced Ziinzibaakwad (maple sugar) which is said to be one of the oldest agricultural product in North America. ■





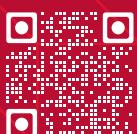
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# NAFOA Institute Update

NAFOA is pleased to announce the 2023 NAFOA Leadership Summit Class. Twelve Native American young professionals were selected this year, making it the largest class to date.

The NAFOA Leadership Summit offers young Native American leaders the opportunity to accelerate their professional development. Out of the largest and most competitive group of applicants, NAFOA selected twelve participants based on leadership experience, strong interest in finance, accounting, business, and tribal economic development policy. Each participant has demonstrated a commitment to the well-being and advancement of Indian Country.

The fifth NAFOA Leadership Summit will take place at the Renaissance Washington DC Downtown Hotel on Sunday, April 23, 2023. At the Summit, participants will be immersed in a full day of career development, business and economic development discussions, and networking. Following the Summit, they will attend the 41st Annual NAFOA Conference.



**Leilani Wesley**

Mississippi Band of Choctaw Indians  
(She/Her/Hers)  
Somerton, AZ and Choctaw, MS  
AB in Economics; Minor in Education;  
Citation in Spanish, Harvard University



**Phyllip Thomas**

Mashantucket Pequot Tribal Nation  
(He/Him/His)  
Mashantucket, CT  
BA in Liberal studies (Political Science/  
Economics), Pace University



**Bobby "Trae" Trousdale**

Citizen Potawatomi Nation  
(He/Him/His)  
Tecumseh, OK  
Master of Public Administration  
(Public Organization and Nonprofit  
Management) and Master of Arts  
in Native American Studies (Tribal  
Governance & Policy),  
University of Oklahoma



**Heidi Perkins**

Tlingit & Haida  
(She/Her/Hers)  
Soldotna, AK  
Bachelor of Business Administration,  
Queens University of Charlotte



**Remington Schneider**

Omaha Tribe of Nebraska  
(He/Him/His)  
Cincinnati, OH  
BA, Environmental Policy and  
International Studies,  
Bowling Green State University



**Kamren Apache**

Navajo Nation  
(She/Her/Hers)  
Alamo Navajo Indian Reservation, NM  
Bachelor of Science Business  
Administration- Management, Haskell  
Indian Nations University-  
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## Youth Update (continued)



**James HorseChief**  
Osage Nation  
(He/Him/His)  
Albuquerque, NM  
Master of Business Administration,  
University of Colorado Boulder, Leeds  
School of Business



**Ashley Davis**  
Big Sandy Rancheria  
(She/Her/Hers)  
Bellingham, WA and Auberry, CA  
Bachelor of Arts, Tribal Governance  
and Business Management, Northwest  
Indian College



**McKenna Green**  
Lac Courte Oreilles Band of Lake  
Superior  
(She/Her/Hers)  
Minneapolis, MN  
Master of Science in Writing with  
specialization in Marketing, Portland  
State University



**Randy Estrin**  
Tlingit & Haida  
(He/Him/His)  
Ketchikan, AK  
Bachelor of Business Administration,  
Haskell Indian Nations University



**Gavin Holzworth**  
Cherokee Nation  
(He/Him/His)  
Bakersfield, CA  
Master of Business Administration,  
Oklahoma State University



**Christi Merrick**  
Omaha Tribe of Nebraska  
(She/Her/Hers)  
Walthill, NE  
Bachelor of Business Administration &  
Management, Bellevue University

## Thank You to Our 2023 NAFOA Leadership Summit

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**COLLABORATION BETWEEN THE YAKAMA NATION & YAKIMA CHIEF HOPS**

## WHO IS YAKIMA CHIEF HOPS?

Yakima Chief Hops is a 100% grower owned global hop supplier, sourcing from family farms who have been growing hops in the Yakima Valley as far back as 1869. Many of these family farms sit on reservation land and lease these acres from members of the Yakama Nation. Currently Yakima Chief Hops sources hops from 22,506 total acres, of which 17,000 acres are from the Yakama Nation Reservation. With a global workforce of 400, YCH is proud to be an international and multinational corporation with offices in Belgium, Hong Kong, and the United States.



With drug and alcohol addiction being an ongoing and devastating issue in Native communities, hops and craft beer have historically carried a negative association with many people of the Yakama Nation. Recently, Yakima Chief Hops has partnered with the Yakama Nation to build awareness on hops as an agricultural ingredient that does not contribute to alcohol content, and the economic benefits of hop farming in the local community. YCH has partnered War Chief, a nonalcoholic beverage company focused on developing beverages that promote sobriety, healthy alternatives, academics, and cultural sustainability.

## YAKAMA NATION

The Yakama Nation totals 1.3 million acres, comprised of prime forest, grazing and fertile agricultural lands, irrigated by the cool fresh waters of melting snow from the Cascade Mountain Range. With over a thousand years living harmoniously with Mother Earth, the Yakama Nation tribal people believe that if we take care of Mother Earth then, She, in turn, will take care of our people. The Yakama Nation has felt the effects of climate change firsthand and believe collective action is needed. YCH and the Yakama Nation have similar desires to protect the planet and have developed their own environmental oriented goals to address water conservation to mitigate elongated effects of drought.



As a result of this partnership YCH and the Yakama Nation have collaborated on various initiatives: Earth Day celebration Tiichum Liikwi, Boys and Girls Club, Heritage University, substantial contribution to the Yakama Warriors Association, Yakama Nation Treaty Day commemoration, and donating hops to contribute to the production of War Chief Collection nonalcoholic beers.

## WAR CHIEF COLLECTION

War Chief is the only nonalcoholic beverage company owned and operated by a female tribal member of the Comanche Nation. Her inspiration came from being a recovering alcoholic and recognized the need to develop an alternative beverage that promotes wellness, combats addiction, and invites those who live alcohol-free into the craft beverage space.



# Fall 2022 Policy Report

## CONGRESS 117th Congress

In 2022, NAFOA actively engaged Congress on Indian energy development. NAFOA Executive Director Rico Frias testified before the House Energy & Commerce Committee on the necessity of the Indian Loan Programs Office (LPO), an important program for energy development that is part of the Department of Energy. In that testimony, Mr. Frias outlined the need to make permanent the LPO's direct lending authority,

both to make it easier for tribes to access capital and develop their energy resources, and also to remove any uncertainty standing in the way of tribal governments that are interested in energy development. "Direct loans are more consistent with the Nation-to-Nation relationship that tribes share with the U.S. federal government by treaty. Those treaties make it clear that the federal government has an obligation to step-up where these private sector lending institutions have not."

NAFOA supported the passage of the Inflation Reduction Act (H.R. 5376 – introduced by Rep



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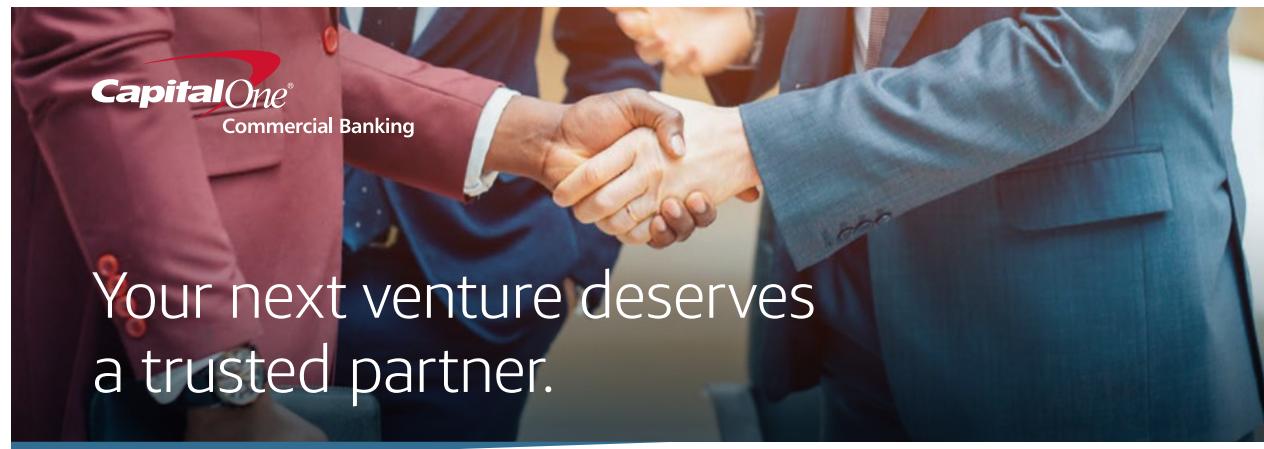


## Policy Report (continued)

Yarmuth, D-KY)(“IRA”) in August of last year. The IRA included NAFOA’s recommended changes to the LPO’s lending authority as well as an increase in the LPO’s lending cap from \$2b to \$20b (Sec 50145 Tribal Energy Loan Guarantee Program). The IRA included a number of other provisions that help Indian Country, such as:

- Sec 13103 – Increase in Energy Credit for Solar & Wind Facilities placed in service in connection with low-income communities
- Sec 40001 – Investing in Coastal Communities and Climate Resilience

- Sec 50122 – High-efficiency electric home rebate program
- Sec 50152 – Grants to facilitate the siting of interstate electricity transmission lines
- Sec 60103 – Greenhouse Gas Reduction Fund
- Sec 60107 – Low Emissions Electricity Program
- Sec 60114 – Climate Pollution Reduction Grants
- Sec 60201 – Environmental and climate justice block grants



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## Policy Report (continued)

- Sec 80001 – Tribal Climate Resilience
- Sec 80003 – Tribal Electrification Program
- Sec 80004 – Emergency Drought Relief for tribes

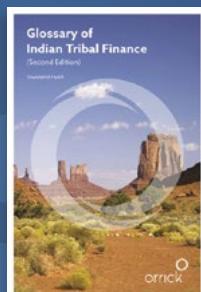
At the end of 2022, Congress passed a series of provisions touching on economic development, Native American language preservation, and water rights & settlements. These included:

- Native American Language Resource Center Act
- Durbin Feeling Native American Languages Act

- Colorado River Indian Tribes Water Resiliency Act
- Hualapai Tribes Water Rights Settlement Act
- Agua Caliente Land Exchange Fee to Trust Confirmation Act
- Don Young Alaska Native Health Care Land Transfers Act
- Extensions to the Not Invisible Act of 2012, including additional support for DoI and DoJ Joint Commission on Reducing Violent Crime Against Indians.

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### 118th Congress

On March 8, 2023, Executive Director Rico Frias testified before the Senate Committee on Indian Affairs about NAFOA's legislative priorities for 2023 and the 118<sup>th</sup> Congress. The testimony, the full draft of which can be found below, outlined key legislative objectives for the coming Congress, especially with regard to necessary changes to tax policy that would create parity between tribes and states.

### Tax Policy

NAFOA has been working with Representative Gwen Moore (D-WI) and her office on the Tribal Tax and Investment Reform Act. This legislation was introduced by Representative Ron Kind (D-WI) in 2013 in the 113<sup>th</sup> Congress and was reintroduced by Representative Kind in each Congress since. In the 117th Congress, the bill was H.R. 4054. When Representative Kind retired at the end of 2022, Representative Moore agreed to take leadership for the issue in the House. Since

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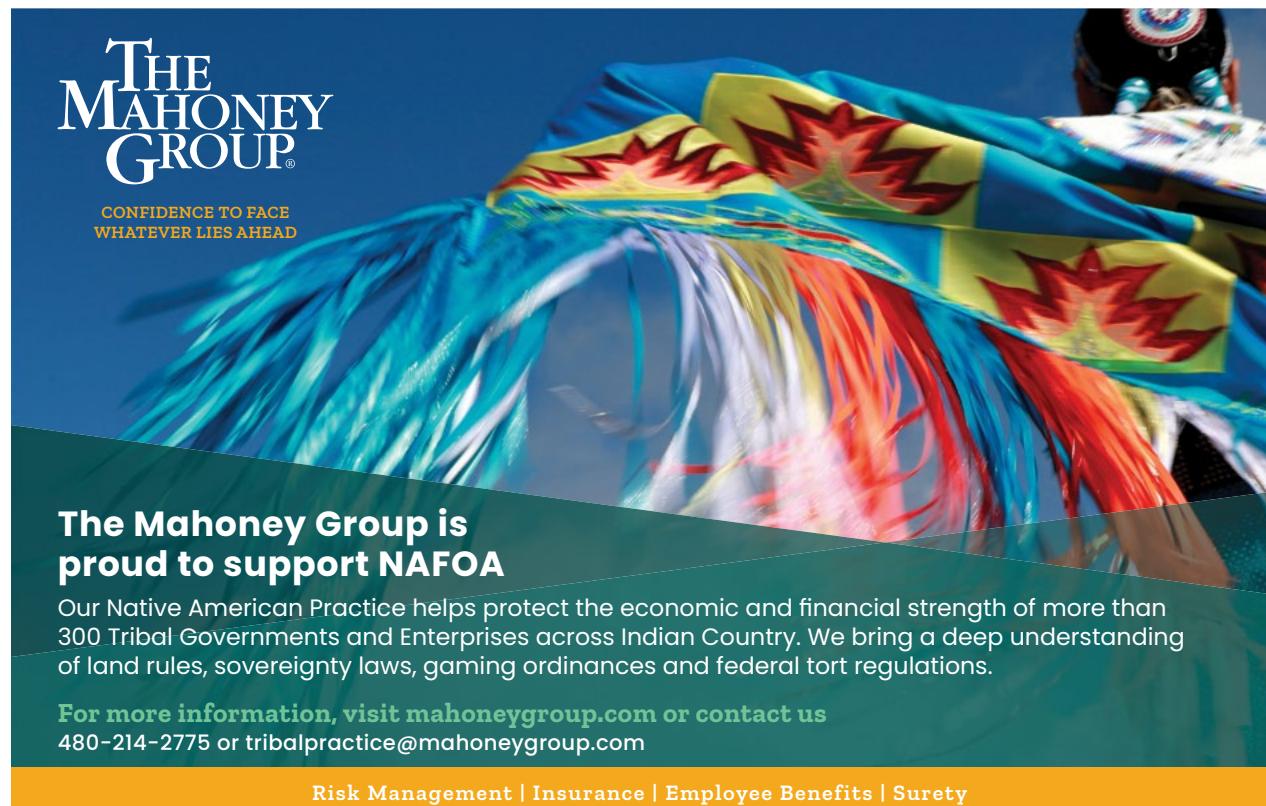
## Policy Report (continued)

then, NAFOA has been working with her office and other tribal stakeholders on re-introduction of the legislation.

At the same time, NAFOA has also been working with Senator Cortez Masto (D-NV) on the Native American Tax Parity and Relief Act, which is similar to the Tribal Tax and Investment Reform Act. Last Congress, Senator Cortez Masto introduced the legislation (S. 5048) in the Senate for the first time. NAFOA has been working with both the House and Senate to push for passage of tribal tax reform in this Congress.

NAFOA's request for the tax reform package are:

- remove the essential governmental function test in the issuance of tax-exempt bonds to allow tribes to issue tax-exempt bonds on equal footing with states by eliminating the essential government function test;
- ensure that contributions to charities created by tribal governments are treated the same as contributions to charities created by state and local governments;



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- improve the effectiveness of tribal child support enforcement agencies by creating parity of access to the federal parent locator service and federal tax refund offsets;
- expand the special needs adoptions credit so it includes adoptions ratified by tribal courts;
- create an annual \$175 million New Markets Tax Credit for low income tribal communities and for projects that serve or employ tribal members;
- create parity with state governments by removing the essential governmental function test from the Employee Retirement Income Security Act;
- codify that possessory interests, permanent improvements (without regard to ownership), and activities under leases or rights-of-way on Indian trust land are not subject to state

taxation this is a critical change that has had bipartisan support in the past.

It is important to note that this is the first year that both the House and Senate have taken up this issue at the same time at the beginning of a new Congress.

### **Carcieri**

NAFOA supports a clean fix for the *Carcieri* decision. On June 18, 1934, Congress passed the Indian Reorganization Act to protect tribal sovereignty and to help restore lands to tribes. For 75 years, all federally recognized tribes had the right under the Indian Reorganization Act to request that land be placed into trust for their nations by the Secretary of the Interior. Accordingly, tribes have used their trust lands to build community facilities like schools, health clinics, and tribal housing to serve their tribal members.

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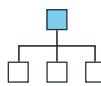
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In 2009, however, the U.S. Supreme Court decided *Carcieri v. Salazar*, which reversed seventy-five (75) years of established policy with its holding that only tribes recognized in 1934 could have land taken into trust. In addition to generating expensive litigation for certain tribes, the *Carcieri* decision caused uncertainty and unequal treatment among federally recognized tribes. NAFOA joined other intertribal organizations in April, 2022, on a Tribal Partner Organizations letter supporting the necessary fix, which stated “It must be acknowledged and understood that at

its core, the *Carcieri* decision is an attack on the Indian Reorganization Act (IRA) of 1934, which Congress enacted to stop the massive loss of Tribal homelands inflicted by the General Allotment Act of 1887 (Allotment Act).” In early March, Congressman Cole (R-OK) and Senator Tester (D-MT) introduced bipartisan legislation that would address the *Carcieri* decision. Last Congress was the first time the legislation successfully passed in the House on a 302-127 bipartisan vote. NAFOA is hopeful that this will be the Congress that passes this important legislation.

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## Policy Report (continued)

### Administration

Last month the White House released its 2024 budget request, stating:

Over the past two years, the Administration has taken additional steps to improve and standardize Tribal consultation in recognition of Tribal communities' inherent sovereignty; expand protections for Tribal victims under the Violence Against Women Act Reauthorization Act of 2022; develop new public safety and justice strategies for Native communities, including addressing the epidemic of missing or murdered Indigenous people; and secure—for

the first time in history—advance appropriations for the Indian Health Service, which will ensure a more predictable funding stream and improve health outcomes across Indian Country.

NAFOA has worked hard to develop a strong relationship with the Administration. We have worked with a wide variety of Departments to ensure that Indian Country's voices are heard and that information about potential funding opportunities is reaching Indian country. Earlier this year, NAFOA hosted a webinar with the Department of Energy's Grid Deployment Office.



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### Webinars

As part of the Bipartisan Infrastructure Law passed last year, the Department of Energy (DOE) launched a program that enables federally recognized Tribes to apply for electric grid resilience formula grants. This program will have approximately \$84 million per year in formula grants available to Tribes for the next 5 years. On January 10, 2023, NAFOA hosted a webinar with the DOE's Grid Deployment Office to discuss new opportunities as part of the Grid Resilience

Formula Grants available specifically for tribes. Representatives of the Grid Deployment Office providing guidance as well as an overview of the opportunities and limitations of the Grid Resilience Formula Grant program. These representatives also answered questions from webinar attendees about the application process. NAFOA remains committed to keeping Indian Country up to date on the latest economic opportunities available for tribes and we will continue to host informative webinars throughout the rest of 2023.



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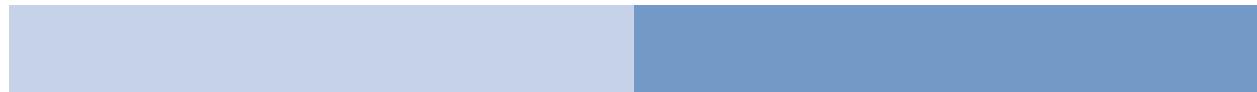


### TTAC

Since our last conference, the Treasury Tribal Advisory Committee (TTAC) has held two periodic meetings; on October 26, 2022, and March 14, 2023. These were the first meetings held since June 2021. During these meetings, the TTAC introduced its three newest members, Stephanie Williams (Alabama-Coushatta Tribe of Texas), Jean Swift (Mashantucket Pequot Tribe), and Will Micklin (Tlingit Haida Indian Tribes of Alaska). The TTAC also approved a General Welfare Exclusion (GWE) Subcommittee Report and extended all three subcommittees for another two years. The TTAC

plans on meeting at least two more times this year and will keep the public up to date on their website. NAFOA will continue to work with the TTAC and coordinate with other national and regional inter-tribal organizations to ensure tax policy and programs work for Indian Country.

Under the Inflation Reduction Act (IRA), there are a number of funding opportunities for Indian Country. The EPA has several different funding opportunities. The Greenhouse Gas Reduction Fund, which totals \$27 billion through September of 2024. It provides \$7 billion in competitive grants for financing and technical assistance, \$12 billion



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for leveraging private investment, and \$8 billion for competitive grants to non-profits. There will also be \$9 billion in Climate Pollution Reductions Grants and \$4 billion for Environmental and Climate Justice Block Grants, which will provide funding to community led partnerships between tribes and non-profits.

During the conference, the White House Council on Native American Affairs and the Department of Commerce will talk about their new access to capital initiatives. This initiative will also involve the Departments of Energy, Interior, and

Treasury, as well as the USDA and OMB and will:

- Publish a list online of all federal financing opportunities available to Tribes, Native entrepreneurs, Tribal enterprises, and Native CDFIs;
- Create a centralized, online clearinghouse of federal financing opportunities that incorporates the online list of federal financing opportunities mentioned above and offers enhanced searchability and other features to assist Native applicants and users;

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## Policy Report (continued)

- Conduct outreach and provide technical assistance to Tribes and Native communities on financing opportunities; and
- Enter into interagency agreements for information and data-sharing to help create a clearer and more accurate picture of Native economies.

### Looking ahead

Although there is a divided Congress, we believe there is still strong potential to see bipartisan legislation passed. Congress will need to come together to pass an appropriations bill this year

and there is a desire by both parties to include tax reform measures in that legislation. Meaningful tribal tax reform is a priority and could pass this Congress. Additionally, last year a number of Native American provisions were included in the first version of the National Defense Authorization Act (NDAA). It is likely that we could see other Indian Country priorities included in future NDAA or other moving legislative vehicles.

NAFOA is a nonpartisan organization and we work hard to ensure that NAFOA can reach across the aisle where possible and bring Republicans and Democrats together, particularly on tax and business development issues that impact Indian Country.

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### **NAFOA Policy Team Contacts:**

Governance, economic opportunities, financial, management, and access to capital are all vital to the economic success of Indian Country. The combined effect of action in these key areas is significant for tribal economics, community, and infrastructure development. NAFOA proactively advocates and creates partnerships to ensure tribal governments and tribal members at-large benefit from a strong and vibrant economy.

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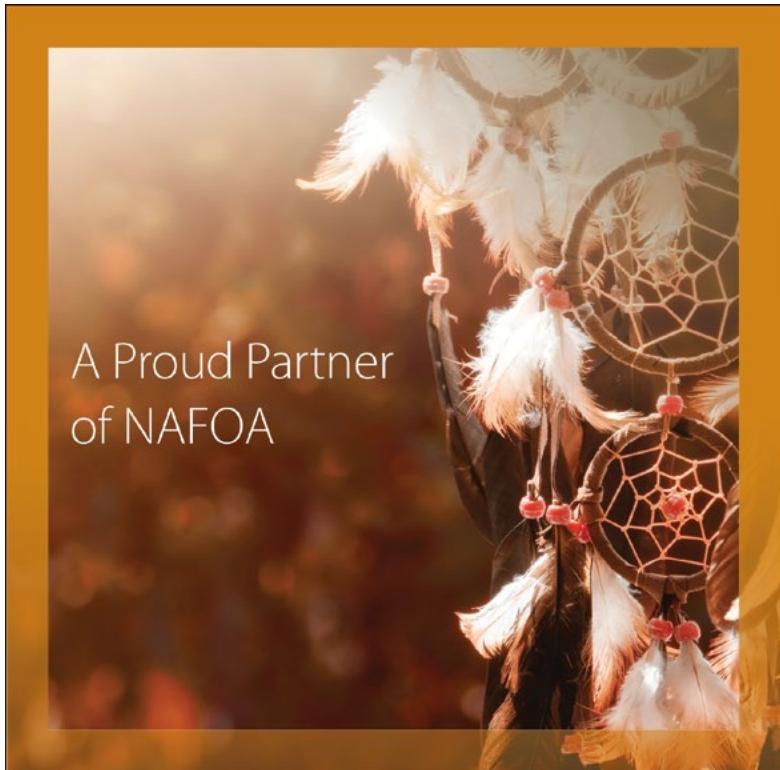
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### March 8th, 2023 NAFOA Testimony to Senate Committee on Indian Affairs

Good afternoon Chairman Shatz, Vice Chair Murkwoiski, and Members of the Senate Committee on Indian Affairs. I would like to thank you for your time today, as well as the opportunity to talk with all of you about priorities for 2023, the 118th Congress, and beyond. I believe this hearing is especially important now, in the wake of COVID-19, as Indian Country prepares for the new challenges and opportunities that we know will come. NAFOA is a national intertribal organization with one hundred fifty-five (155) Member Tribes in twenty-six (26) states. Our mission is to strengthen tribal finance and grow tribal economies by advocating for bipartisan policy solutions. Our priorities are to ensure parity for tribes with states and to unlock the economic potential of Indian country. We support meaningful tribal tax reform to ensure tribes are treated the same as states elimination of the essential governmental function test, parity for tribal courts in regards to access to adoption tax credits and child support enforcement, and the elimination of dual taxation on tribal



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lands which stifles economic development. In order to grow unlock the full economic potential of Indian country we ask rights of way, leases, and permits must be approved as swiftly on Indian lands as they are outside of Indian lands.

I started with NAFOA in July of 2021. Over the last two years NAFOA has worked to keep tribal governments informed about the funding opportunities provided under the CARES Act, ARPA, and other statutes like the Inflation Reduction Act (“IRA”). We have hosted numerous webinars and events with Administration officials

from the Departments of the Treasury, Commerce, Interior, and Energy, while also working to educate those officials, many of whom had not worked on tribal issues before. Each tribe is unique with its own array of issues and priorities, and there is no “one size fits all” solution for Indian Country to any problem Indian tribes face. However, there are changes that can be made to increase the ability of tribes to provide for their tribal citizens. History has shown that when the economic potential of Indian tribes is unlocked, the surrounding communities benefit as well.



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A trust responsibility exists between the United States federal government and Indian tribes. Beginning with the 1778 Treaty with the Delaware, the United States entered into numerous treaties with Indian tribes and these treaties gave rise to the trust responsibility. The Commerce Clause of the United States Constitution has been interpreted to give the Congress broad authority in regard to Indian tribes. Under the trust responsibility the federal government has an obligation to uphold tribal sovereignty and the right to self-governance. Consistent with this obligation we urge the

Congress to pass legislation to fix current tax regulations and meet the needs of tribes as they exist today. Tribes face structural obstacles arising from our unique history. One is that our lands are held in trust by the federal government and cannot be used as collateral when tribes are seeking financing. In addition, tribes are unable to create revenue through the imposition of property taxes as states do. These unique challenges impact tribal governments as they work to meet the needs of their tribal citizens.

## Fostering the advancement of tribal communities together

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### Tax Reform

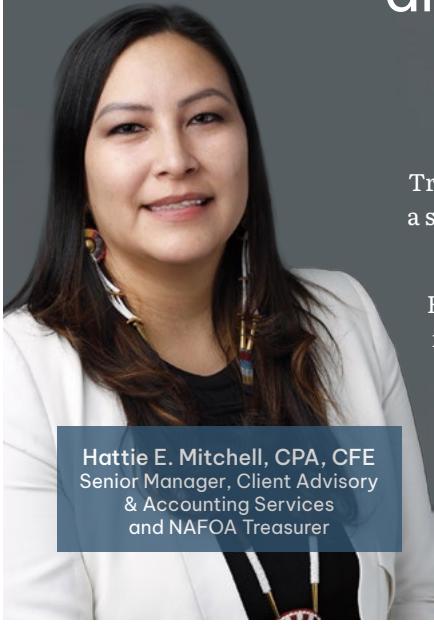
For many years Indian tribes have called for tax reform to address inequities in the current regulations. Members of both parties, including Vice Chair Murkowski, Senator Cortez Masto, Representative Ron Kind, and the late Representative Don Young all introduced legislation in the last Congress that addressed some or all of Indian country's long-standing priorities with regard to tax reform. I would like to thank the Members for their work and leadership on this legislation and include Representative Gwen Moore who has agreed to take responsibility for this important legislation now that Representative Kind has retired.

Taken together, the Tribal Tax and Investment Reform Act, first introduced by Congressman Ron Kind in 2013 in the 113th Congress and reintroduced in every Congress since, and the Native American Tax Party and Relief introduced by Senator Cortez Masto in the 117th, outline Indian country's tax priorities. While varying slightly, the legislation includes important provisions that will put tribes on equal footing with state governments.

Our requests for tribal tax reform can be summarized as follows: remove the essential governmental function test in the issuance of tax exempt development bonds to allow tribes to issue

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and NAFOA Treasurer

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Advisors & CPAs

National Tribal Services



**Wesley Ryan Benally, CPA**  
Principal and National Tribal Practice Leader

## Policy Report (continued)

tax-exempt development bonds on equal footing with states by eliminating the essential government function test; ensure that contributions to charities created by tribal governments are treated the same as contributions to charities created by state and local governments; improve the effectiveness of tribal child support enforcement agencies by creating parity of access to the federal parent locator service and federal tax refund offsets; expand the special needs adoptions credit so it includes adoptions ratified by tribal courts; create an annual \$175 million New Markets Tax Credit

for low income tribal communities and for projects that serve or employ tribal members; create parity with state governments by removing the essential governmental function test from the Employee Retirement Income Security Act; codify that possessory interests, permanent improvements (without regard to ownership), and activities under leases or rights-of-way on Indian trust land are not subject to state taxation this is a critical change that has had bipartisan support in the past.

A change that would provide tribes with greater access to capital and is consistent with the above



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Please seek out members of our Native American Law Team at the conference, including Partners [Philip Baker-Shenk](#), [Randy DelFranco](#), [Nicole Elliott](#), [James Meggesto](#) and [Kenneth Parsons](#), as well as Associate [Kayla Gebeck Carroll](#) and Public Affairs Advisor [Camryn Towle](#).

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suggestions would be to ensure the New Market Tax Credits can be used in conjunction with the BIA's Indian Loan Guarantee Program. In our work with tribal leaders, banks, and financial advisors, NAFOA hears first-hand the various issues and challenges they run into when trying to help tribes access capital for business or economic projects. Currently, tribes cannot take advantage of the NMTC if going through the Indian Loan Guarantee Program. This oversight would cost Congress nothing to correct but would dramatically increase the ability of smaller tribes to make deals.

### Economic development:

The COVID-19 pandemic made it abundantly clear that tribal economies must be diversified in order to be strong. Congress can help unlock the energy potential of Indian country and help tribes diversify their economies and create jobs. Whether renewable or traditional, energy is an important part of tribal economic diversification. As the Biden administration emphasizes the shift to net zero by 2030, tribes are important partners in that shift. Over the past two years, NAFOA has partnered with the Department of Energy and other stakeholders to make sure tribes have the information they need to



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## Policy Report (continued)

make decisions regarding energy development and about the various federal funding options that are available. We have seen the strong interest in energy development from Indian Country. I hear it when I speak to tribal leaders at the NAFOA conferences and as I attend other events across Indian country. The webinars NAFOA has hosted on energy development have been some of the best attended over the past two years.

Last year NAFOA testified before the House Energy & Commerce Committee on the Indian Loan Guarantee Program, which is part of the Department of Energy. The LPO program, which now is authorized to loan up to \$20 billion, is

an example of the kind of initiative that solves two problems at once, increasing credit for tribal governments and unlock the energy potential of Indian Country. The 53 million acres of Indian lands are host to 20% of Americas conventional energy resources and hold the potential for vast renewable energy resources, all of which are ready to deploy. However, there are still many barriers facing tribal energy project development. The Inflation Reduction Act from last year included important changes that I am hopeful will have a strong impact, though that impact will depend on how the direct pay program and tax credits are implemented when the rules are finalized.



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As mentioned above, tribal lands are generally held in trust by the federal government. This unique status creates unique barriers. It also creates barriers that non-tribal energy developers do not encounter. I have repeatedly heard that delays in approvals by the Bureau of Indian Affairs of rights-of-ways, permits, and leases increases costs of tribal projects, delays projects unnecessarily, and sometimes, directs projects onto neighboring non-tribal fee lands. Beyond energy, these delays impact broadband and other infrastructure projects. Congress can improve the efficiency of these processes by putting authority back into the

hands of tribal governments where they wish to exercise it. Archaic and stifling rules regarding tribal land use can tie-up the process in red tape and discourage investments. In some cases, BIA requests could take up to two years, which can be the end to of any economic, development project. According to the GAO, the permitting review process under the BIA can take two times as long as the Bureau of Land Management.

Last April, NAFOA joined other intertribal organizations on a Tribal Partner Organizations letter supporting the necessary fix required of the Carcieri decision. To quote from that letter “It must

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## Policy Report (continued)

be acknowledged and understood that at its core, the Carcieri decision is an attack on the Indian Reorganization Act (IRA) of 1934, which Congress enacted to stop the massive loss of Tribal homelands inflicted by the General Allotment Act of 1887 (Allotment Act).” Twice the House passed strongly bipartisan legislation that would address and fix the inequities arising from the Carcieri decisions during the 117th. This past week, Senator Tester and Representative Cole again introduced legislation addressing the Carcieri decision. I thank them both for their leadership on this topic, and I hope that this is the Congress we are able to fix this misguided decision and restore the ability of all tribes to take land into trust.

### Conclusion

Congress has an obligation to protect tribal sovereignty and to promote tribal self-determination. NAFOA urges this Congress to take up the above priorities to promote the general welfare of tribes and their citizens by encouraging the economic growth and prosperity of Indian country. Tribal governments have been pushing for tax reform for decades and should not have to wait even longer for these crucial changes. I thank you all again for your time and look forward to answering any questions you might have. ■

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# Legislative Resources



NAFOA provides legislative analysis, policy development, and liaison with the Administration, Congress, federal agencies, and accounting standard setters. NAFOA also tracks particular bills and GASB pronouncements that have broad relevance for Indian Country.

- Senate in Session
- House in Session
- Both chambers in session
- Both chambers in recess
- Federal Holiday

## April

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## September

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## October

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## November

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## December

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Appropriations	Appropriations
Armed Services	Armed Services
Budget	Budget
Education and the Workforce	Banking, Housing, and Urban Affairs
Energy and Commerce	Commerce, Science, and Transportation
Ethics	Energy and Natural Resources
Financial Services	Environment and Public Works
Foreign Affairs	Finance
Homeland Security	Foreign Relations
House Administration	Health, Education, Labor, and Pensions
Judiciary	Homeland Security and Governmental Affairs
Natural Resources	Judiciary
Oversight and Government Reform	Rules and Administration
Rules	Small Business and Entrepreneurship
Science, Space, and Technology	Veterans' Affairs
Small Business	
Transportation and Infrastructure	
Veterans' Affairs	
Ways and Means	
<b>Special, Select, and Other Committees</b>	
Permanent Select Committee on Intelligence	Aging
Select Committee on the Events	Ethics
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**Vice Chair of the Democratic Policy and Communications Committee:**

Cory Booker (D-NJ)

**Chair of Outreach:**

Senator Bernie Sanders (I-VT)

**Vice Chair of Outreach:**

Senator Jeanne Shaheen (D-NH)

**Chair of Steering Committee:**

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Senator Tammy Baldwin (D-WI)

**Senate President Pro Tempore:**

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### House of Representatives

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Rep. Katherine Clark (D-MA)

**Democratic Caucus Chairman:**

Rep. Pete Aguilar (D-CA)

**Assistant Democratic Leader:**

Rep. James Clyburn (D-SC)

### Senate Democratic Committee Assignments

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Senator Debbie Stabenow (D-MI)

**Appropriations:**

Senator Patty Murray (D-WA)

**Armed Services:**

Senator Jack Reed (D-RI)

**Banking, Housing and Urban Affairs:**

Senator Sherrod Brown (D-OH)

**Budget:**

Senator Sheldon Whitehouse (D-RI)

**Commerce, Science and Transportation:**

Senator Maria Cantwell (D-WA)

**Energy and Natural Resources:**

Senator Joe Manchin (D-WV)

**Environment & Public Works:**

Senator Tom Carper (D-DE)

**Finance:**

Senator Ron Wyden (D-OR)

**Foreign Relations:**

Senator Bob Menendez (D-NJ)

## Congressional Leadership In The 118th Congress (continued)



### **Health, Education, Labor, and Pensions:**

Senator Bernard Sanders (I-VT)

### **Homeland Security and Governmental Affairs:**

Senator Gary Peters (D-MI)

### **Indian Affairs:**

Senator Brian Schatz (D-HI)

### **Judiciary:**

Senator Dick Durban (D-IL)

### **Rules and Administration:**

Senator Amy Klobuchar (D-MN)

### **Small Business and Entrepreneurship:**

Senator Ben Cardin (D-MD)

### **Veterans Affairs:**

Senator Jon Tester (D-MT)

### **Aging:**

Senator Bob Casey (D-PA)

### **Ethics:**

Senator Chris Coons (D-DE)

### **Intelligence:**

Senator Mark Warner (D-VA)

### **Joint Economic Committee:**

Senator Martin Heinrich (D-NM)

### **Joint Committee on Taxation:**

Senator Ron Wyden (D-OR)

## **Republican Leadership:**

### **Senate**

#### **Republican Leader:**

Senator Mitch McConnell (R-KY)

#### **Republican Whip:**

Senator John Thune (R-SD)

#### **Republican Conference Chairman:**

Senator John Barrasso (R-WY)

#### **Republican Policy Committee Chairman:**

Senator Joni Ernst (R-IA)

#### **Republican Conference Vice Chairman:**

Senator Shelley Moore Capito (R-WV)

#### **Senatorial Committee Chairman:**

Senator Steve Daines (R-MT)

### **House of Representatives**

#### **Speaker of the House:**

Rep. Kevin McCarthy (R-CA)

#### **House Majority Leader:**

Rep. Steve Scalise (R-LA)

#### **Majority Whip:**

Rep. Tom Emmer (R-MN)

#### **Chairman of Republican Policy Committee:**

Rep. Gary Palmer (R-AL)

#### **Chairman of Republican Conference:**

Rep. Elise Stefanik (R-NY) Vice-Chairman of Republican Conference:

Rep. Mike Johnson (R-LA)

#### **Chairman of Republican Congressional Committee:**

Rep. Richard Hudson (R-NC)

## Congressional Leadership In The 118th Congress (continued)



### **Senate Republican Committee Assignments**

#### **Agriculture, Nutrition, and Forestry:**

Senator John Boozman (R-AR)

#### **Appropriations:**

Senator Susan Collins (R-ME)

#### **Armed Services:**

Senator Roger F. Wicker (R-MS)

#### **Banking, Housing, and Urban Affairs:**

Senator Tim Scott (R-SC)

#### **Budget:**

Senator Chuck Grassley (R-IA)

#### **Commerce, Science, and Transportation:**

Senator Ted Cruz (R-TX)

#### **Energy and Natural Resources:**

Senator John Barrasso (R-WY)

#### **Environment & Public Works:**

Senator Shelley Moore Capito (R-WV)

#### **Finance:**

Senator Mike Crapo (R-ID)

#### **Foreign Relations:**

Senator James Risch (R-ID)

#### **Health, Education, Labor, and Pensions:**

Senator Bill Cassidy (R-LA)

#### **Homeland Security and Governmental Affairs:**

Senator Rand Paul (R-KY)

#### **Indian Affairs:**

Senator Lisa Murkowski (R-AK)

#### **Judiciary:**

Senator Lindsey Graham (R-SC)

#### **Rules and Administration:**

Senator Deb Fischer (R-NE)

#### **Small Business and Entrepreneurship:**

Senator Joni Ernst (R-IA)

#### **Veterans Affairs Senator:**

Jerry Moran (R-KS)

#### **Aging:**

Senator Mike Braun (R-IN)

#### **Ethics:**

Senator James Lankford (R-OK)

#### **Intelligence:**

Senator Marco Rubio (R-FL)

#### **Joint Economic Committee:**

Senator Mike Lee (R-UT)

## Congressional Leadership In The 118th Congress (continued)



### The Senate Committee on Finance

The Senate Committee on Finance concerns itself with matters related to taxation and other revenue, bonded debt of the United States, customs, deposit of public monies, general revenue sharing, health programs under the Social Security Act, and other health programs financed by a specific tax or trust fund. The Finance Committee has the largest jurisdiction of any congressional committee, overseeing over 50 percent of the nation's budget, including America's entitlement programs, Medicare, Medicaid and Social Security, all tax policy, international trade, several welfare programs, and the nation's debt.

#### Majority

Chairman Ron Wyden (D-OR)  
Senator Debbie Stabenow (D-MI)  
Senator Maria Cantwell (D-WA)  
Senator Robert Menendez (D-NJ)  
Senator Thomas Carper (D-DE)  
Senator Benjamin Cardin (D-MD)  
Senator Sherrod Brown (D-OH)  
Senator Michael F. Bennet (D-CO)

Senator Robert P. Casey, Jr. (D-PA)  
Senator Mark R. Warner (D-VA)  
Senator Sheldon Whitehouse (D-RI)  
Senator Maggie Hassan (D-NH)  
Senator Catherine Cortez Masto (D-NV)  
Senator Elizabeth Warren (D-MA)

#### Minority

Ranking Member Mike Crapo (R-ID)  
Senator Charles Grassley (R-IA)  
Senator John Cornyn (R-TX)  
Senator John Thune (R-SD)  
Senator Tim Scott (R-SC)  
Senator Bill Cassidy (R-LA)  
Senator James Lankford (R-OK)  
Senator Steve Daines (R-MT)  
Senator Todd Young (R-IN)  
Senator John Barrasso (R-WY)  
Senator Ron Johnson (R-WI)  
Senator Thom Tillis (R-NC)  
Senator Marsha Blackburn (R-TN)

## Congressional Leadership In The 118th Congress (continued)



### The Senate Committee on Indian Affairs

The Senate Committee on Indian Affairs has jurisdiction to study the unique issues of American Indian, Native Hawaiian, and Alaska Native peoples and to propose legislation to alleviate these difficulties.

#### Democrats

Chairman Brian Schatz (D-HI)  
Senator Maria Cantwell (D-WA)  
Senator Jon Tester (D-MT)  
Senator Catherine Cortez Masto (D-NV)  
Senator Tina Smith (D-MN)  
Senator Ben Ray Luján (D-NM)

#### Republicans

Vice Chairman Lisa Murkowski (R-AK)  
Senator John Hoeven (R-ND)  
Senator Steve Daines (R-MT)  
Senator Markwayne Mullin (R-OK)  
Senator Mike Rounds (R-SD)

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## Congressional Leadership In The 118th Congress (continued)



### Treasury and Other Key Officials

#### Secretary of the Treasury:

Janet Yellen

#### Director, Office of Management and Budget:

Shalanda Young (acting)

#### Treasury Assistant Secretary for Tax Policy:

Lily Batchelder

#### IRS Commissioner:

Daniel Werfel

#### Secretary of the Interior:

Deb Haaland

#### Department of the Interior – Indian Affairs Principal

##### Deputy Assistant Secretary:

Bryan Newland

##### Bureau of Indian Affairs Director:

Darryl LaCounte

##### FAF Executive Director

John W. Auchincloss

##### GASB Chairman

Joel Black

##### FASB Chairman

Richard Jones

##### AICPA Chairman

Anoop N. Mehta

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**8** TRIBAL  
ORGANIZATIONS

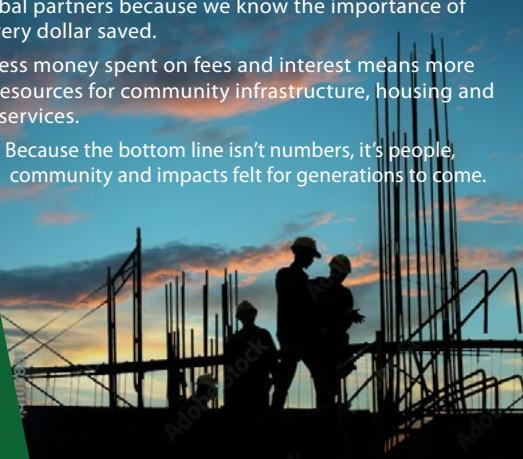
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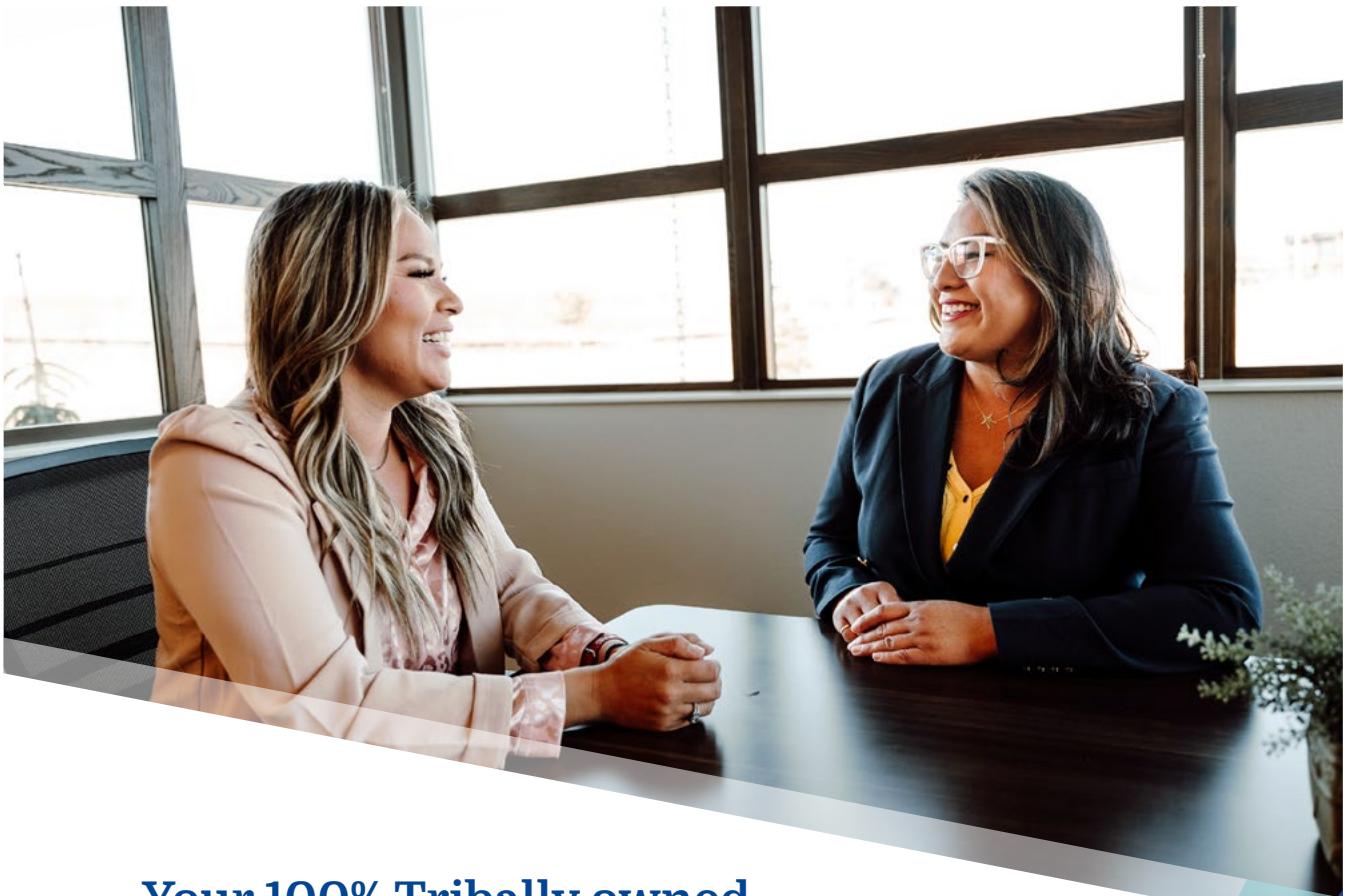
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Orrick, Herrington & Sutcliffe LLP  
P/E Investments  
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<sup>1</sup>As of December 31, 2022.

<sup>2</sup>Source: "Special Report: Investment Outsourcing," P&I, 7/4/22. Based on AUM as of 3/31/22. WMDV stands for Women, Minority, Disabled Veteran owned enterprises. WMBE stands for Women and Minority Owned Business Enterprise. The eVestment universe consists of 127 total firms: 77 female firms, 21 Hispanic American firms, and 29 African American firms. The universe is based on ownership data reported in eVestment. Past performance is not indicative of future results. Northern Trust Asset Management is composed of Northern Trust Investments, Inc., Northern Trust Global Investments Limited, Northern Trust Fund Managers (Ireland) Limited, Northern Trust Global Investments Japan, K.K., NT Global Advisors, Inc., 50 South Capital Advisors, LLC, Northern Trust Asset Management Australia Pty Ltd, and investment personnel of The Northern Trust Company of Hong Kong Limited and The Northern Trust Company. © 2023 Northern Trust Corporation. Head Office: 50 South La Salle Street, Chicago, Illinois 60603 U.S.A.

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# NAFOA's 16th Annual **Leadership Awards**



*NAFOA presented its first Leadership Awards in 2008 and honored a number of innovative tribal leaders, tribal nations, and financial education directors for positively impacting tribal economies. The tradition continues and in 2023, NAFOA will honor a select number of individuals with NAFOA Leadership Awards during NAFOA's 41st Annual Conference.*

## **The NAFOA Leadership Award categories include:**

### **Government Impact**

#### **Deal of the Year**

This award recognizes a tribal deal or financial venture completed during the last year. The deal should be original in structure and its terms should be innovative for the tribe. The deal should have a lasting positive effect on the overall economic status of the tribe and its members.

has demonstrated: cutting-edge thinking in developing the financial plans of the tribe, leadership in effectively sharing suggestions with the tribe, and success in implementing ideas for the overall betterment of the tribe.

#### **Business Impact Deal of the Year**

This award recognizes a tribal deal or financial venture completed during the last year. The deal should be original in structure and its terms should be innovative for the tribe. The deal should have a lasting positive effect on the overall economic status of the tribe and be beneficial to Indian Country as a whole.

#### **Tribal Leader of the Year**

To effectively lead a tribal nation, tribal leaders are tasked with the responsibility of making major financial decisions. This award honors a tribal leader who has displayed significant foresight and resolve in the financial advancement of his or her tribal nation.

#### **Executive of the Year**

Financially healthy tribal nations have excellent staff at the helm. This award honors an Executive, Finance Director, Chief Financial Officer, Treasurer, or other senior financial leader of a tribe or tribal subsidiary enterprise, who

#### **Education Program of the Year**

This award honors a creative and effective education program that furthers knowledge and understanding of business, economic development, or related fields. The award is open to programs developed by tribes, non-profits, universities, schools, and other institutions. The program should enrich the lives of Native people and empower them to make sound financial decisions.

## Leadership Awards (continued)



### Government Impact Deal of the Year

#### **Morongo Band of Mission Indians**

NAFOA awards our Government Impact Deal of the Year to tribal financial ventures that have a long-lasting positive economic impact on their community and tribal members. On January 28, 2022, after more than 10 years of teamwork and focus, the Morongo Band of Mission Indians (Morongo Band) and Jenner & Block secured the final approval of a historic agreement between the tribe and the Southern California Edison (SCE) company, affording profound short and long-term benefits to the tribe, the surrounding communities, Indian Country, and our climate.

Morongo's investment in this \$800 million project has a significant effect on California's transmission infrastructure buildout, tripling the transmission system's capacity to connect solar, wind, and battery projects located outside of the Morongo reservation to the Southern California region. This large-scale reliable delivery of renewable energy is an integral part of the country's contribution to climate solutions. Additionally, as noted by experts who spoke with Law360, this transaction "will serve as a template for future tribal-private partnerships that can accelerate the transmission development needed to get more clean energy on the grid."

By securing the annual revenue requirements as a thirty-year investment, Morongo Band ensured that the tribe will have a stable and certain income from Morongo Transmission LLC, for 30 years. The monthly income is expected to be in the high seven figures.



For Indian Country, this opens up future possibilities to participate meaningfully in the country's clean energy economy.

The project was championed by Morongo Tribal Chairman Robert Martin and Charles Martin and supported by leaders from Jenner & Block's Energy, Climate Solutions, and Native American Law practices; attorneys at Forman Shapiro & Rosenfeld LLP, and attorney Tom Tureen. The team was driven by the tribe's deep connection to the environment, as well as the economic development opportunity that this presents the tribe, and cleared significant roadblocks to allow deals such as this one to have a positive impact in Indian Country and the US for decades to come.

The Federal Energy Regulatory Commission (FERC) approved transmission rates for Morongo Transmission LLC's 30-year leasehold interest in SCE's upgraded West of Devers high-voltage transmission system that crosses the Morongo Band's reservation. The decision allowed SCE to upgrade its vital transmission link across Reservation lands, with Morongo Transmission, majority-owned by the Morongo Band, having the option to participate in the financing of the project and earn a significant return on its investment, with no increase in cost to SCE's ratepayers. NAFOA is pleased to present the Morongo Band of Mission Indian with our 2023 Government Impact Deal of the Year Award! ■

## Leadership Awards (continued)



### Business Impact Deal of the Year

#### The Jamul Indian Village of California

NAFOA is proud to present our 2023 Business Impact Deal of the Year to The Jamul Indian Village of California (“Tribe”) for refinancing their entire debt related to the construction of their casino and reducing their interest rate burden by over \$30 million annually. They are a small rural tribe in southern California and first sought to develop a gaming operation on its 6-acre reservation in 1992. Due to significant local opposition and difficulty obtaining financing, this dream was delayed for over 20 years. The Tribe created the Jamul Indian Village Development Corporation (“JIVDC”) in 2013 to again pursue a casino development.

In 2014, in partnership with Penn National Gaming, JIVDC started construction on a \$460 million state-of-the-art casino which would become the closest casino to downtown San Diego. This new casino development was supposed to be a game changer for the Jamul people, however before the casino was completed, financing for the casino fell through and JIVDC had to turn to high interest financing which exceeded 10% interest annually.

Recognizing the need for a change, in 2018 JIVDC decided to end its relationship with Penn National Gaming and self-manage the casino, rebranding it the Jamul Casino. Once JIVDC began to self-manage the casino, the casino’s performance began to improve significantly allowing JIVDC to evaluate refinancing options for its high interest debt in 2019. Jamul engaged a lender to refinance part of its outstanding debt. Unfortunately, JIVDC got within a few weeks of closing a \$200 million



senior loan in February 2020 before the COVID pandemic hit and killed the transaction.

Thankfully, one of the participants in the loan (Western Alliance) was willing to proceed with the transaction and stepped up to become the Lead Arranger, although the refinance was smaller than initially contemplated. Western Alliance and its lender group (Nevada State Bank, Columbia Bank, and CIT) were able to refinance \$130 million of the roughly \$400 million in outstanding debt and Sculptor (existing lender) was willing to become a subordinated lender for the remaining \$270 million of debt (“Jamul Casino Refinancing Transaction”).

The initial Jamul Casino Refinancing Transaction closed in January 2021, and by June 2021, due to the performance of the Jamul Casino, JIVDC was able to exercise its option to increase the loan from \$130 million to \$200 million. This increase enabled the JIVDC to move more high interest debt over to low interest debt and improve cash flow. In February 2022, the JIVDC was able to refinance with the existing lender group along with the addition of U.S. Bank and KeyBank to re-finance the entire debt related to the casino and take out all of the high interest debt and move the entire loan to a conventional, low-interest rate structure. This structure of this deal will be pivotal for tribal leaders looking to refinance their projects in the future. ■

## Leadership Awards (continued)



### Executive of the Year Award

#### **Maxine R. Velasquez**

NAFOA's Executive of the Year award is given to Tribal leaders who have demonstrated effective leadership and financial planning for the benefit of Indian Country throughout their career. This year, NAFOA is excited to present our 2023 Executive Leadership Award to Maxine R. Velasquez.



Maxine R. Velasquez is an enrolled member of the Pueblo of Laguna Indian Reservation, located 46 miles west of Albuquerque, New Mexico. She was named President and CEO of Laguna Development Corporation (LDC) in April 2020. An attorney by training, Maxine became the first woman to steward a multimillion-dollar tribally owned corporation for her community.

LDC's businesses include three New Mexico Indian gaming establishments, twenty-two food and beverage establishments, entertainment and hospitality, a grocery store, two travel centers, and three fuel stations. In 2022 she was the lead negotiator in the sale of the company's Ellis Park Racing and Gaming facility in Henderson, Kentucky to a nationally recognized casino and horse

racetrack operator. The deal generated a 305% return on the company's original investment made in 2019.

Before becoming President and CEO of LDC, Maxine served as In-House General Counsel and was in private practice for more than twenty years representing tribes and their business entities on the full range of legal and policy issues, including Indian gaming, economic development, land, water, taxation, contracts, ordinances and regulations, and rights-of-way negotiations. She also advised and represented Tribes before a wide range of governmental departments, agencies, and committees at the local, state, and federal level.

Maxine received her Juris Doctor, Master of Public Administration, and Bachelor of Arts degree in Criminal Justice from the University of New Mexico, an Associate's degree in Administration of Justice from Allan Hancock College and is currently pursuing her MBA at the University of New Mexico. She also received a Business Administration Certificate from the University of Notre Dame. She continues to be licensed to practice law in New Mexico. In her spare time, she enjoys golf, martial arts, RVing, hiking, weightlifting, gardening, and is learning to play the guitar. ■

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## Leadership Awards (continued)



### Tribal Leader of the Year

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#### **B. Cheryl Smith**

NAFOA is pleased to present Chief B. Cheryl Smith with the Tribal Leader of the Year award for her 50 years of dedicated service and leadership. B. Cheryl Smith has spent most of her professional career working in various capacities for her Tribe, the Jena Band of Choctaw Indians.



She served on the Tribal Council from 1975 until 1998 during which time the Tribe, after many struggles and disappointments, obtained federal recognition. She was elected the first woman Chief in 1998 and served in that capacity until 2002. She served again on the Tribal Council from 2004 until 2010 when she was re-elected as Chief, the position she held until October 23, 2022, when she retired from public service.

Under Chief Smith's leadership, the Tribe has enjoyed sustained economic development and growth, including the opening and planned development of several diverse businesses, generating revenues and enabling the Tribe to provide additional programs for and services to the Tribal Members.

Chief Smith has also served Indian Country and LaSalle Parish as the current Treasurer and a Board Member of the United South and Eastern Tribes, Inc., Board Member on the Inter-Tribal Council of LA, former Board Member on the Central Louisiana Economic Development Authority, past Chairman and member of the Colonial Trails Committee, ad hoc member of the LaSalle Economic Development Board, and former Board Member of the LaSalle Association for Developmentally Disabled.

She was inducted into the Jena High School Hall of Fame in 2019 and selected that year as the Grand Marshall of the Town of Jena Christmas Parade. Chief Smith has been married for 38 years to her husband Rusty, and they have five sons and 14 grandchildren. For her almost half a century long service and dedication to Indian Country, NAFOA is proud to present Chief B. Cheryl Smith with the 2023 Tribal Leader of the Year Award! ■

## Leadership Awards (continued)



### Education Program of the Year

#### Oklahoma State University College of Osteopathic Medicine at the Cherokee Nation

NAFOA's Education Program of the Year honors a creative and effective education program that furthers knowledge and understanding of business, economic development, or related fields. This year, NAFOA is pleased to present our Education Program of the Year to the Oklahoma State University College of Osteopathic Medicine at the Cherokee Nation (COMCN).

Cherokee Nation has a large, state of the art health services department offering a variety of services to Cherokee citizens and members of other federally recognized tribes. Between 2012 and 2018 Cherokee Nation made a \$100 million investment in our healthcare system. Once this investment was made, they realized that there was a severe shortage



of medical professionals. To solve this problem, Cherokee Nation took a "grow our own" approach. Knowing that less than 1% of medical students nationwide are Native American and that doctors historically practice within 50 miles of where they do their residency Cherokee Nation searched for a solution.

Cherokee Nation partnered with the Oklahoma State University School of medicine and established the first tribally associated medical school in early 2021. Cherokee Nation invested \$40 million in the 84,000 square foot facility. The inaugural class had 54 students who will graduate in May of 2024. In year 2 another 54 were added. Approximately 50 new students will be added each year, at full capacity 200 students will attend the medical school. ■

# Treasury Tribal Advisory Committee



Pursuant to Section 3 of the Tribal General Welfare Exclusion Act of 2014, Pub. L. 113-168, and in accordance with the provisions of the FACA, the TTAC was established on February 10, 2015. This seven-member Tribal advisory committee advises the Secretary on significant matters related to the taxation of Indians, the training of Internal Revenue Service field agents, and the provisions of training and technical assistance to Native American financial officers. The membership has three appointees nominated by the Secretary, two appointed by the House Committee on Ways and Means, and two nominated by the Senate Committee on Finance.

The Treasury Tribal Advisory Committee (TTAC) held its first in person meeting since the beginning of the pandemic on October 26, 2022 and held their most recent meeting on March 14, 2023. The TTAC plans to hold at least 3 periodic meetings in 2023. Their next meeting is scheduled for June 14, 2023.

## Members



### Rebecca Benally

Ms. Benally is a member of the Navajo Nation. She formerly served as the county commissioner of San Juan County in Utah. She was the first Native American woman to hold this post.

Benally has been in education for over 20 years, as a teacher, elementary, high school and college administrator. Benally also serves on the Navajo Nation Board of Education, has been a business owner for over 20 years, and has been selected to the Governing Women in Leadership Institute.



### Ron Allen

Mr. Allen has served as Tribal Chairman since 1977 and as CEO since 1982. Under his leadership, the Jamestown S'Klallam Tribe transitioned from a landless reservation base to a land base of over 1200 acres and established several business enterprises. Mr. Allen was President of the National Congress of American Indians from 1995-1999.



### Sharon Edenfield

Ms. Edenfield is a Tribal Council Member for the Confederated Tribes of the Siletz Indians, located in Oregon. Ms. Edenfield has more than 30 years of experience working directly on tribal tax, financing, and insurance issues in Indian Country.

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## Treasury Tribal Advisory Committee (continued)



### **Jean Swift**

Jean Swift is the current Chief Financial Officer for the Mashantucket Pequot Tribe. Prior to being named to this role, she served as Tribal Council Treasurer from 2013-2018. Ms. Swift completed a three-year term on the Internal Revenue Service Advisory Council (IRSAC) in 2020 as a representative of Indian tribal governments. A current member of the Treasury Tribal Advisory Council (TTAC); her Congressional appointment was confirmed in September 2022. She is also a member of the Leadership Council for the Center for Indian Country Development – Federal Reserve Bank of Minneapolis. Ms. Swift is a graduate of the University of Connecticut, Certified Public Accountant, and proud citizen of the Mashantucket Pequot Tribal Nation.



### **Will Micklin**

Will Micklin was elected to serve a two-year term as 4th Vice President on Tlingit & Haida's Executive Council in 2022. This is his seventh term on the Executive Council. He has been a Tlingit & Haida Delegate since 1994 and is Chairman of the Tlingit Haida Tribal Business Corporation. Since 1995, Will has served as Chief Executive Officer of the Ewiaapaayp Band of Kumeyaay Indians, a federally recognized tribe and reservation. Will volunteers as Executive Director for the statewide inter-tribal association of California tribes,

the California Association of Tribal Governments, since its founding in 2008. Will graduated with a Bachelor of Arts in English Literature from the University of Washington in 1982. He is a member of the Alaska Native Brotherhood Camp 14, a lifetime member of the National Congress of American Indians, and a shareholder of Sealaska Corporation and 13th Regional Corporation.



### **Stephanie Williams**

Stephanie Williams is a member of the Alabama-Coushatta Tribe of Texas and the Chief Financial Officer for the Tribe's gaming operation, Naskila Casino. Williams was appointed to the TTAC by former U.S. Rep. Kevin Brady, who was the ranking member on the U.S. House Committee on Ways and Means in 2022. Prior to serving as the Chief Financial Officer at Naskila, Williams served as Internal Auditor and Executive Director for the Alabama-Coushatta Tribal Gaming Agency. Throughout her career, Williams has worked in various capacities with the Tribe's Indian Health Service, Housing and Education programs. She also served a term on the Tribal Council. Stephanie lives on the Alabama-Coushatta Indian Reservation in Livingston, Texas, with her husband, Bryan. They are the parents of two adult daughters, Traci and Whitney and grandparents of granddaughters Ke'Tanah, Layla and Amora.

# NAFOA Future Conferences



2023 Fall Finance & Tribal Economies Conference

October 2-3, 2023, Sheraton Grand at Wild Horse Pass, Phoenix, AZ



42nd Annual Conference

April 29-30, 2024, Seminole Hard Rock Hotel & Casino, Hollywood, FL



2024 Fall Finance & Tribal Economies Conference

September 23-24, 2024, Hilton San Diego Bayfront, San Diego, CA



43rd Annual Conference

April 28-29, 2025, New Orleans Marriott, New Orleans, LA

# UPWARD



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# Past NAFOA Conferences



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## Past NAFOA Conferences (continued)



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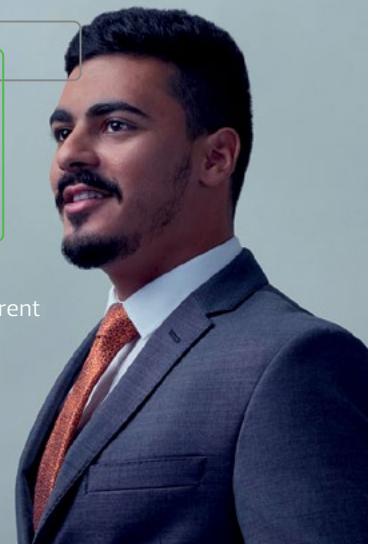
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# Mitigating Opportunities for Fraud

The risk of fraud has never been higher for Tribal organizations. With the issuing of ARPA and CARES act funding, tribal governments have large amounts of excess cash that can't be used on normal operational activities in all cases. Meanwhile, employees are seeing inflationary pricing in their normal expenses and rising interest rates, putting pressure on their monthly household expenses.

Fraud requires three components. You'll hear accountants refer to it as the fraud triangle. Those components are opportunity, incentive, and rationalization. For most tribal governments, two of those components are already present:

Incentive – “The prices of my monthly expenses continue to rise and/or I'm about to see a rise in my mortgage interest rate on my home. Unfortunately, my wages have not increased at the same rate of these increases. I might need to find another job or get a second one to make ends meet.”

Rationalization – “You know, the tribe has a LOT of extra cash in the bank at the moment. I wonder if there would be a way to get some of that cash in my hands for a little bit until I can be in a better position financially.”

Well, what about opportunity? Well, that is the question Tribes should be asking themselves: Are we limiting the opportunities for fraudsters by ensuring we have effective internal controls and adequate segregation of duties? The failure to have these controls leaves Tribes vulnerable and mismanagement of funds and lack of controls can jeopardize funding from federal sources



and reduces public trust in the tribal government.

So what types of fraud are we seeing currently? Fraudsters are becoming more and more creative in their approach which makes it harder to detect and makes the fraud more likely to continue for a longer term. The most common types of fraud that are being experienced by Tribal organizations are:

**Bribery and Corruption:** Bribery and corruption are among the most common types of fraud in Tribal entities. It can involve offering or accepting money, gifts, or other favors to influence decisions made by officials. This type of fraud can result in a loss of tribal funds, unethical behavior, and a lack of trust in tribal officials. To prevent bribery and corruption, tribal governments should establish clear policies and guidelines that prohibit these activities and provide training to employees on how to recognize and report them. Additionally, a code of conduct should exist and be signed by all members of the tribal council and any employee who works for the tribe. This code of conduct should include the required disclosure of any relationship for a company or individual contracting with the tribe with any decision maker on the project. Additionally, these types of clauses should be included in the submission of bids so that contractors are also required to disclose these relationships.

**Embezzlement:** Embezzlement is the act of stealing money or property that has been entrusted to an individual. It can occur in tribal government entities when officials abuse their power and steal public funds for personal gain. Embezzlement can go unnoticed for years and can

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result in significant losses for the tribal government. With the excess cash being provided tribes from ARPA and CARES act funding being more limited in usage toward capital purchases, a common issue is for individuals to use PCards to purchase personal electronic devices for their organization and then take those purchases home for either personal use or to sell them. Without a proper inventorying system, these frauds are very easy to perpetrate. Another issue relates to the purchases of guns for use by the police department. Purchases of new weapons should also be inventoried and tracked. New purchases without the hiring of new offices should also have some discussions and proof and trade-ins of firearms to purchase any new firearm. Weapons are easy to take and sell, especially if they are illegally obtained through gun shows and some pawn shops. To prevent these types of fraud, tribes should establish strict controls over finances, including regular audits, segregation of duties, and employee background checks.

**False Claims:** False claims occur when an individual or company submits fraudulent claims for payment to the tribal government. This can include submitting inflated invoices, claiming services or products that were not provided, or submitting false expense reports. False claims can result in significant financial losses to the tribe and can be difficult to detect. To prevent false claims, tribal government entities should establish clear policies and guidelines for the submission and approval of invoices and expense reports, as well as perform regular audits of these documents.

**Contract Fraud:** Contract fraud occurs when individuals or companies submit false information or engage in

other fraudulent activities during the bidding process for tribal government contracts. This can include collusion among bidders, providing false or incomplete information, or submitting inflated bids. Contract fraud can result in higher costs for the tribe, poor quality products or services, and a lack of trust in the contracting process. To prevent contract fraud, tribes should establish clear guidelines for the bidding process, perform background checks on bidders, and monitor contracts closely for any signs of fraud.

**Cyber Fraud:** Cyber fraud is becoming increasingly common in tribal government entities, as many tribal operations are now conducted online. Cyber fraud can include hacking into tribal databases, stealing sensitive information, or using phishing scams to gain access to tribal accounts. Cyber fraud can result in the loss of confidential information, damage to tribal systems, and the potential for identity theft. To prevent cyber fraud, tribal government entities should establish strong cybersecurity policies and procedures, provide regular training to employees on how to recognize and prevent cyber-attacks and perform regular security audits and penetration tests on their information systems.

In conclusion, fraud can occur in any organization, including tribal government entities. To prevent fraud in your tribal government, it is essential to establish clear policies and guidelines, perform regular audits, explore the use of internal auditors, and provide training to employees on how to recognize and prevent fraudulent activities. By taking these steps, tribes can maintain the trust of their citizens and ensure that funds are being used ethically and responsibly. ■

# Indian Land Capital Company Takes a Unique Approach to Lending in Indian Country

**T**his is a historic day for the Bois Forte Band,” said Cathy Chavers, Chairwoman of the Bois Forte Band of Chippewa in Northern Minnesota as she signed the paperwork to recover more than 28,000 acres of land wrongfully taken over a century ago. “This acquisition represents the largest restoration of land to our Reservation since our ancestors secured what was to be our permanent and undisturbed homeland.” Completed in June 2022, this historic Bois Forte land recovery was made possible thanks to financing from the Indian Land Capital Company (ILCC), a Certified Native Community Development Financial Institution (CDFI) based in Minnesota that provides alternative loan options to Native Nations for tribal land acquisition projects. “This purchase represents one of the larger transactions in our company’s history,” said ILCC’s Chief Executive Officer Rjay Brunkow, an enrolled member of the Turtle Mountain Band of Chippewa Indians. “We are honored to help pave the way for this historic land acquisition.”

The land was previously held by timberland owner and lumber manufacturer PotlatchDeltic Corporation and has a troubled history. The Band entered into a treaty with the United States in 1854 that set aside a region around Lake Vermilion as a reservation that was later defined through an 1881 Executive Order. In its 1866 Treaty with the United States, the Band reserved two additional sectors at Nett Lake and Deer Creek to serve as



Rjay Brunkow,  
CEO of Indian  
Land Capital  
Company

its permanent homeland. Just 20 years later, the federal government changed course, divided the Reservation land and sold it to timber companies and homesteaders. Now the land will be directly managed by the Band under a forest management plan that emphasizes conservation and environmental protection balanced with economic and cultural benefits to the Band and its members.

The deal was a partnership done between ILCC, the Bois Forte Band, The Conservation Fund, and ILCC’s parent organization, the non-profit Indian Land Tenure Foundation. A combination of conservation incentive payments, coupled with sustainable revenue streams derived from the sale of carbon credits generated on the land, will enable the Band to fund the purchase.

## ILCC Understands the Unique Needs of Native Nations

Although this loan transaction was larger and more complex than most, it represents the core of what the Indian Land Capital Company was established to do – help restore land within reservation boundaries to Native American ownership and control. ILCC takes a unique approach to tribal financing that has made the organization the premier lender in Indian Country. The company understands the specific needs of Native Nations and lends to tribes on a “full faith and credit” basis, a unique approach that recognizes their sovereign status



Indian Land Capital Company financing enabled the Bois Forte Band of Chippewa to recover over 28,000 acres of forestland on its reservation in Northern Minnesota.

and business acumen. This enables tribes to process land purchases more quickly and efficiently and avoid costly legal fees while ensuring that the land remains in the hands of the tribe in perpetuity.

“There is a tremendous gap in available capital in Indian Country,” Brunkow explained. “Native CDFIs were born out of the need to address that. We lend to tribes like a big bank lends to state governments. We ask for a full faith and credit pledge, and that’s good enough for us. In 15 years, we’ve never had a tribe default. I meet with traditional bankers all the time because that’s the source of our funding. Every single time, they are just blown away that we don’t take a mortgage on the land deals. They literally say to me, ‘How do you get paid back?’ Our model has proven that tribes are a good credit risk.”

From timberland in Northern California to agribusiness in Michigan and Montana, from a sawmill expansion in Wisconsin to the reacquisition of sacred sites in California, ILCC has financed a wide variety of projects across Indian Country. Brunkow joined ILCC in 2015 after serving as an investment banker for a major bank with a focus on government infrastructure in Indian Country. He was also the Solicitor General for the Mille Lacs Band of Ojibwe, and Chief Legal Counsel for the Turtle Mountain Band of Chippewa Indians. As a result of this experience, he has been involved in all sides of financial transactions which provides a unique lens through which to view the needs of tribes.

“Traditional bankers are so used to securitizing every asset they can get their hands on. The concept of not having land as collateral is so foreign to them,” he said. “We structure our loans to meet the needs of the tribe in ways that ensure they can successfully cover the debt service. We don’t take the land as collateral for two reasons. The first is once a tribe acquires a piece of land, we don’t ever want that land put at risk again. If the tribe can’t make the debt service payments we’ll figure something out. The second is with no mortgage on the land, the tribe is able to immediately begin the process of putting it into trust status with the federal government if that is their preference. That clears a lot of hurdles for them because it’s almost impossible to get land into trust with a mortgage attached.”

A single loan can be life-changing for a tribal community. Once an economic development project begins to cash flow and build up resources for the community, the sense of pride spikes and momentum is created for more projects going forward. “Some of our clients are borrowing for the third time because they did a project and it took off,” Brunkow said. “Then they did another project and that one did well. Now they’re working on a third. So many reservations, especially ones that we work with, are in isolated areas where any injection of new capital makes a world of difference. It feels great to know our work is having such a big impact.” ■

# Key Financial Statement Items Your Tribal Council Should Review

By Anita Shah, CPA, Moss Adams

Individuals are elected to a Tribal council, Tribal board of directors, or equivalent positions because of a variety of skill sets that bring different viewpoints to the table and add value to a Tribal government or Tribal organization. However, those skill sets don't always include an accounting or finance background.

Tribal Councils must know the difference between their restricted resources and unrestricted resources. Funding from grants and contracts must be used for specific purposes, but there are other sources of funding used based on strategic decisions made by the Tribal council.

The following guidance is provided for Tribal council members to consider when reviewing their Tribe's financial statements.

## Your Financial Position

The amount of cash in the Tribe's bank account isn't a true indicator of your Tribe's financial position.

Ask your chief financial officer, controller, or equivalent, to show you the Tribe's month-to-date or year-to-date financial statements. It's best to review the current period and prior period financials side-by-side to easily identify and inquire about any significant fluctuations.

Specifically for revenues and expenses, seeing a trend of the past three to five or even 10 years will tell you the story of the direction of the Tribe's financial position.



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## Know Your Resources

When you're reading through the financial statements, you'll see your Tribe's financial resources are primarily split between the following:

- Unearned revenues
- Unrestricted net position
- Revenues

### Unearned Revenues

Tribes typically have unearned—or deferred—revenues, which is advanced cash received by granting and contracting agencies. If there are large, advanced cash balances that haven't been spent year-over-year, also referred to as carryover balances, you'll want to find out whether there are projects planned for that funding to ensure your Tribe is seizing opportunities with the available funding.

### Unrestricted Net Position

Unrestricted net position—also considered unrestricted equity—is a line item on your financial statements that indicates the amount of savings the government has built up over the years that can be used at the discretion of the Tribe.

The purpose of a government isn't to make a profit, but to provide services and take care of its citizens. So as a Tribal council member, you'll want to evaluate if the government has a balanced strategy for this unrestricted net position to:

## Year-to-Date Financial Statements Example

	2022	2021	\$ CHANGE
<b>ASSETS</b>			
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	\$ 45,750,000	\$ 20,250,100	\$ 25,499,900
Investments	35,785,000	32,150,750	3,634,250
Accounts receivable, net	12,540,000	3,901,307	8,638,693
Due from other governments	3,172,976	2,564,400	608,576
<b>Total current assets</b>	<b>97,247,976</b>	<b>58,866,557</b>	<b>38,381,419</b>
<b>NON-CURRENT ASSETS</b>			
Capital assets, net	41,510,000	39,000,100	2,509,900
<b>TOTAL ASSETS</b>	<b>\$ 138,757,976</b>	<b>\$ 97,866,657</b>	<b>\$ 40,891,319</b>
<b>LIABILITIES AND NET POSITION</b>			
<b>CURRENT LIABILITIES</b>			
Accounts payable	\$ 25,500,000	\$ 1,675,400	\$ 23,824,600
Accrued liabilities	7,500,125	2,501,341	4,998,784
Unearned revenue	17,501,314	11,450,000	6,051,314
<b>Total liabilities</b>	<b>50,501,439</b>	<b>15,626,741</b>	<b>34,874,698</b>
<b>NET POSITION</b>			
Net investment in capital assets	41,510,000	39,000,100	2,509,900
Unrestricted	46,746,537	43,239,816	3,506,721
<b>Total net position</b>	<b>88,256,537</b>	<b>82,239,916</b>	<b>6,016,621</b>
<b>TOTAL LIABILITIES AND NET POSITION</b>	<b>\$ 138,757,976</b>	<b>\$ 97,866,657</b>	<b>\$ 40,891,319</b>

- Address current and long-term needs of citizens, including future expansion of programs and services
- Utilize future economic development opportunities
- Maintain sufficient funds for reserves, such as replacement of infrastructure or emergency situations

### Revenues

Familiarize yourself with the different sources of revenue to have an idea of which are the more reliable revenue sources—for example, continuing Bureau of Indian Affairs (BIA) and Indian Health Service (IHS) contracts—and which ones tend to fluctuate based on economic conditions, such as investment income and sales tax revenues.

If you find most of your larger revenues are made up of one or two limited sources, such as federal grants

and contracts, or profit distributions from one Tribal enterprise, it'll give you an area of focus to create a long-term strategy to diversify your revenue sources and reduce your concentration risk.

Reviewing your revenues and expenses in a budget versus actual format will give you an idea of the Tribe's current year-to-date financial results.

### Make Connections in the Financial Statements

In the example below, you'll see a significant increase in cash balances. But, pay attention to the significant increases in receivables, which consist of amounts the Tribe is owed from other parties and grant awarding agencies, and significant increases in accounts payables and other liabilities, which consist of amounts the Tribe owes to vendors, employees, and other parties.

Although cash balances have increased, so have accounts payable and accrued liabilities that are payable within a year. As a result, the increase in cash is most

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likely a timing difference, since that increase in the cash balance will be used to pay outstanding vendor invoices and employee obligations in 2023. The increase in cash is also related to an increase in advanced cash received from granting agencies, called unearned revenue.

Normally, you'd expect receivables and payables to fluctuate month by month based on the amount of collections received and payments made. But, if receivables or payables are consistently growing each month, or if these balances are unusually large in relation to the respective revenues or expenses, you'd want to know how long the receivables and payables have been outstanding.

If the receivables are greater than 90 days old, there's an increased risk you'll be unable to collect the cash on those balances. For long outstanding payables, you'd want to ensure there are no unnecessary penalties or interest charges the Tribe has to make on late payments.

### Expenses

As you consider your citizens' needs while reviewing the financial statements, look carefully at expenses. Understand the total expenses and check for alignment with Tribal needs, then break down each program's expenses by type.

### Understand Your Costs

Review the expenses by each general fund program and grant program operated by the Tribe to get familiar with the cost of your programs and consider whether these programs align with your citizens' needs.

### Ask for an Expense Breakdown

Within those expenses by program, you'll want to ask for a breakdown of the expenses by three general areas:

- Operating expenses broken out between payroll and non-payroll operating expenses

- Capital expenses, typically one-off capital purchases, construction expenses, or non-recurring expenses
- Indirect cost expenses

### Payroll and Operations

During difficult economic conditions, understanding the composition of your payroll versus non-payroll expenses will inform your strategic decisions.

While capital projects can be delayed and other program operations can be trimmed, it's helpful to know the number of employees operating the Tribe's programs. Attracting, retaining, and training good talent is big challenge for every organization.

Indirect costs, such as administrative costs, is an indication of how much effort it takes your Tribe to operate a program. Knowing the burden of your indirect costs when evaluating a new grant opportunity will tell you about the cost versus benefit of the grant program.

### Training

Each Tribe's finances are unique, so while our guidelines pertain to Tribal financial statements in general, it's prudent to create financial statement training either for newly elected Tribal Council members or provide refresher trainings to all Tribal Council members every few years. ■

*Anita has practiced public accounting since 2007. She specializes in navigating Tribal governments through grant requirements and streamlining financial processes by performing annual single audits. She can be reached at [anita.shah@mossadams.com](mailto:anita.shah@mossadams.com) or (360) 685-2212.*

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# Umpqua Bank and its Financial Partnership with Tribal Communities

**Umpqua Bank knows that relationships aren't made overnight.**

We have been operating in the Pacific Northwest for 70 years and have long been a financial partner of tribal communities. These are connections we've built and nurtured over time. We value that history and look forward to strengthening those bonds and support in a new stage of our business.

Umpqua Bank and Columbia Bank recently combined, creating the leading regional bank in the West. Together we bring together our cultures of relationship-based banking with a community focus. Each organization has a solid history and ongoing commitment to investing in and supporting the needs of tribal communities.

"We remain focused on operating as a community bank, which means that we approach relationships with our customers, and Native American tribes specifically, differently than most other banks," said Nick Butler, from Umpqua's Native American Banking Group. "We take the time to understand the tribe's current and future needs, and to provide solutions that will help, both from short-term and long-term perspective."

## COMMUNITY SUPPORT

Our work in tribal communities is not limited to lending. We believe in supporting communities, especially when it comes to financial inclusion and empowerment.

Take for example, Community Development Financial Institutions, which are often known as CDFIs.



**UMPQUA BANK**

Umpqua has more than 25 CDFI partnerships across its footprint. These organizations provide financial services for low-income communities and those

lacking access to financing. We support these organizations financially, through Equity Equivalent Investment loans, and through technical and volunteer support as well. These CDFIs, in turn, foster affordable housing and small business development.

We also support Individual Development Accounts, known as IDAs, to help people achieve financial stability. These can be vehicles for those with limited access to banking services a means to save money to start a business or pay for education.

In May 2022, Umpqua Bank together with Columbia Bank, completed an \$8.1 billion Community Benefits Agreement (CBA) with the National Community Reinvestment Coalition (NCRC). The agreement formalizes the combined bank's commitment to leverage its size and resources for greater impact in historically underserved communities by extending economic opportunity through investments in affordable housing and homeownership, small business support, and individual asset development.

Together the banks have a shared vision and commitment to how our unified team can make the biggest, positive impact in our communities.

We also commit time and expertise to strengthening all the communities in which we serve. Our teams donate thousands of hours each year to volunteering in their communities, including providing technical and

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expert advice, such as providing personal and financial coaching courses.

“The Umpqua Bank Charitable Foundation and Social Impact Team have only scratched the surface of the possible ways we can partner with tribes to help achieve the mutual goals of creating more financially inclusive communities,” said Brenden Butler, Community Impact Officer, Oregon, and Southwest Washington. “From products and services to technical assistance to funding, Umpqua Bank has a responsibility to do what we can to run alongside all communities and leverage all the tools possible to open avenues to capital access and financial expertise.”

## PROJECTS

Umpqua’s professional work includes tribes of all sizes on an array of projects.

At last count, we work with more than 55 tribes nationwide and beyond and are a BIA-approved lender. Our professional partnerships include numerous tribal organizations, including NAFOA, the Affiliated Tribes of Northwest Indians, the National Congress of American Indians, the California Indian Gaming Association, and the Washington Indian Gaming Association.

Our work in support of tribal communities is diverse and deep. Recent projects include a construction loan and term loan for a tribe to construct a new Elder’s Center that had been in the planning stages for more than 10 years. We’ve facilitated numerous infrastructure and

support projects, including the development of health care clinics, water treatment plants and more.

“Over the past 15 years, collectively, we have provided in excess of \$3 billion of loan commitments to tribes throughout the country,” said Kevin Meabon from Umpqua’s Native American Banking Group. “A significant portion of these funds supported non-gaming economic development and tribal infrastructure projects.

“We are excited to leverage the expertise and track records of the two respective banks and continue supporting the banking needs of tribes, but with a significantly higher lending capacity going forward while retaining our community banking and common-sense approach.”

One project that stands out as an example of this commitment: In 2012 the banks, then separate, worked together to help finance the construction of a Tribal Government Complex, as well as the associated infrastructure. This joint effort was a transaction many other banks didn’t want to pursue, as credit markets remained tight coming off the recession. But recognizing the importance of the project, we worked with tribes to fulfill their goal of an integrated state of the art government complex. The project was on time, on budget and done on a tax-exempt basis.

Together, the banks expect this kind of excellence to continue, said Nick Butler.

“As a regional bank with such close ties, we are able to be flexible and creative to meet the unique needs of tribes as sovereign nations and their business enterprises.” ■

# Grantmaking To Support A More Equitable and Prosperous Future for Native Americans

By **Tim Rios**, Rural Strategy Leader, Philanthropy & Community Impact

**W**hen you look at a map outlining reservation lands, you will notice the physical boundaries to which the once strong Tribal nations are now confined. It is a visual reminder of years of systemic barriers that have left underdeveloped, underbanked, and underserved Tribal economies.

In recent years, Wells Fargo has committed more than \$70 million to address the barriers affecting economic prosperity in Indian Country. First, in 2017 with an initial \$50 million commitment over five years and again in 2023 through a new initiative called “Invest Native” with an additional \$20 million commitment.

In 2017, Wells Fargo’s \$50 million commitment



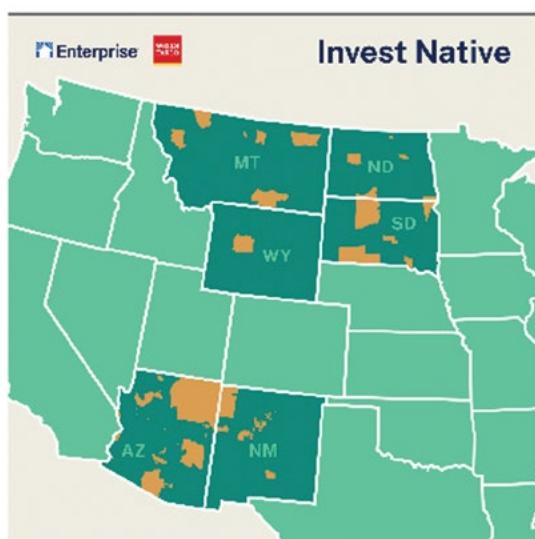
addressed the unique social, economic, and environmental needs in Native communities. The company fulfilled this financial promise in 2022, working with Native-serving organizations in 38 states to strengthen housing, small business, financial health, education and more in Native communities.

Funding from the \$50 million helped entities like Native Community Capital support small business borrowers as they navigated the COVID economy; and Lakota Funds with additional capital to help a young Lakota man with his business to create five new jobs and provide a quality product and service in the Pine Ridge reservation and surrounding communities.

Over the last five years, successes were celebrated but Wells Fargo also learned a great deal, developed a deeper understanding of the barriers Indian Country faces, and is dedicated to improving its commitment to help create a more equitable and prosperous future for Native Americans.

Wells Fargo leaders held meetings with tribal leaders and hosted listening sessions to refine our philanthropic approach in Indian Country. We gained a deeper understanding that funding is not all that matters when it comes to building economic resiliency for the community. Wells Fargo learned that support of Native communities needs to come at all levels to create more opportunities for local and regional organizations.

Invest Native will fund Native-led Coalitions, nonprofits and CDFIs in four key areas: housing, small business, financial health and sustainability initiatives. Its impact is focused among Native American



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communities in Arizona, Montana, New Mexico, North Dakota, South Dakota, and Wyoming.—

Wells Fargo is not going about this on their own. Through our partnering with tribal entities, Wells Fargo has engaged the Tribal Nations team at Enterprise Community Partners to; provide thought leadership and strategic guidance, technical assistance and training, and program evaluation to support this multi-year effort to foster maximum impact.

Over the next two years, Invest Native will:

- Create positive outcomes for families, small businesses, and communities, including more single- and multi-family housing construction, access to capital for small businesses and consumers, and financial health programs.
- Strengthen infrastructure for Native-led organizations by funding projects that improve their technology and systems so groups can be more efficient in assisting families and small businesses.
- Invest in asset-building tools, peer-to-peer learning and training, and research that sheds light on the distinctive needs of Native communities and prepares staff to utilize best practices in their work.

### **Putting intent into action with nonprofit organizations**

Invest Native begins with three grantees, each of whom has received \$500,000 grants:

- Lakota Funds will work with South Dakota Native Homeownership Coalition, or SDNHOC, on expanding access to housing and preserving community housing to

significantly increase homeownership in Native communities across South Dakota.

- Native Community Capital is partnering with New Mexico Tribal Homeownership Coalition to strengthen homeownership throughout the state. The long-term objective is to build a campaign around model mortgage lending and homeownership activities that address the unique status of tribal trust lands. The New Mexico Tribal Homeownership Coalition's sole purpose is to advance homeownership in tribal communities.
- Four Bands Community Fund will team up with Mountain | Plains Regional Native CDFI Coalition to increase capital to Native entrepreneurs and drive small business growth.

In February 2023, Wells Fargo and Enterprise Community Partners leaders convened with members from the New Mexico Tribal Homeownership Coalition, Mountain Plains Regional Native CDFI Coalition, and South Dakota Native Homeownership Coalition begin mapping tout the journey of understanding and giving to Native Communities with the stories, lessons learned, and best practices.

Today, Wells Fargo continues to work with groups that aim to lift up opportunity in Indian Country to provide a clear path forward with resources and solutions to achieve the goal for Invest Native; to advance economic opportunities in Native American communities and make a true impact.

To learn more about Invest Native and the philanthropic impact to Native-led organizations and the communities they serve, please visit Wells Fargo's Native Communities website or contact Tim Rios directly at [riostim@wellsfargo.com](mailto:riostim@wellsfargo.com). ■

# Minors Trusts: A Better Tomorrow Starts Today

Children represent the future of society, and many Tribes have made substantial investments in their youth that are designed to have a positive impact. A growing number of Native American youths receive large sums of money from the proceeds of a Minors Trust that Tribes have developed to invest in their future. For many this is the largest lump sum of income they will receive in their lifetime. Intentions to invest this money often competes with the urge to splurge and the threats from predatory individuals and industries are ever present.

In 1988, President Ronald Reagan signed into law the Indian Gaming Regulatory Act (IGRA), which provided Tribes with the ability to establish Revenue Allocation



Plans (RAP) to share Tribes' gambling profits with their citizens, including minors and legally incompetent adults. RAP money for minors are often

placed into a Minors Trust and these trusts usually begin for a child at birth and can be accessed as early as age 18, either in lump sums (sometimes as much as several hundred thousand dollars) or in installment payments. Occasionally, without proper financial guidance, big money can cause big trouble.

Historically, people have demonstrated the difficulties of employing windfall gains. Windfall money tends to be viewed as less consequential and more expendable. Studies show that about 70% of lottery winners lose or spend their winnings in less than five years.

Indian country is not immune to this issue. Often, there is a temptation, supported by friends, family and merchants, for a young recipient to make impulse purchases after receiving a lump-sum distribution. Family members may pressure the child to share the wealth instead of using it to enhance the child's future prospects. And knowing that they will be receiving a large distribution could even cause some young tribal members to lose sight of the value of education and drop out of school.

KeyBank Native American Financial Services has a deep understanding of how investment strategies and minors trust structures can help a Nation thrive. Our advisors can assist with trust management to increase financial security while protecting tribal heritage and culture.

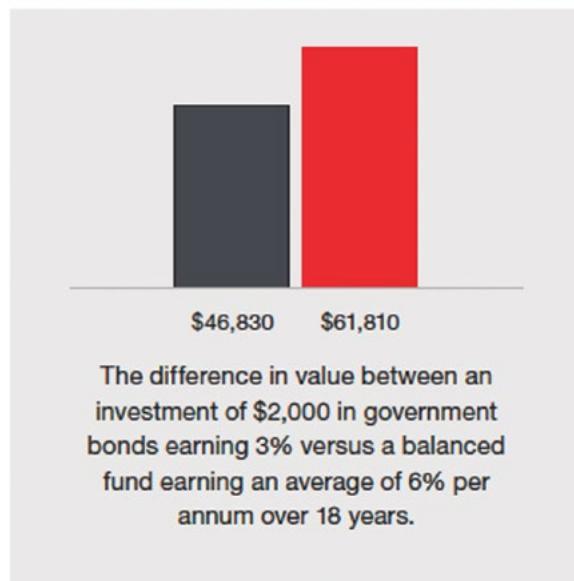
## Key Takeaways

Designing enhancements to a minors trust program is an important step in realizing the full value of the investments being made in Native America's youth. We work with Tribal leadership to analyze the various structures available and assist them in developing a strategic plan for Tribal membership. KeyBank's Native American Financial Services Team strives to provide leadership and has the resources necessary to engage thoughtfully with their membership.

## Strategies for Financial Security

KeyBank Native American Financial Services recommends that our Tribal clients focus on the following pillars when managing their minors' trusts:

**1. Risk-focused investment strategy:** In order to mitigate risk and avoid difficult conversations with Tribal members, many minors trusts invest exclusively in government bonds. Unfortunately, government bonds have not historically kept up with inflation and taxes, leaving the ultimate distributions to minors to be worth less, in real dollars, than when the funds were initially deposited on their behalf. A Tribe's focus on investment policy is critical to the success of the Minors Trust for which they are responsible. For example, adopting an age-based glidepath structure (similar to a target date retirement fund or college savings plan) that pursues growth while participants are young and de-risks the investments as they near distribution age has become a best practice.



**2. Revisiting distribution management:** Tribes all across the country are coming up with creative ideas to enhance their trusts to better serve their communities and members. Strategies for distribution include:

- Splitting payments into increments rather than one lump-sum amount
- Providing parameters for how distributions can be used
- Establishing financial literacy requirements
- Assigning financial coaches and mentors to young adults

**3. Enhancing communication to promote financial literacy:**

Clear and consistent communication with participants is vital to the long-term success of the investment program. Upfront communication of the long-term goals and short-term risks can help address concerns when markets turn volatile and losses occur in the program.

Communication strategies can be used as an educational opportunity to promote financial literacy among membership and arm them with the knowledge to make sound financial decisions when receiving their distributions from a Trust. Strategies include:

- Quarterly investment commentary included with statements
- Annual presentations to membership on investment strategy
- Enrolling young Tribal members in educational programs and assigning mentors to help young tribe members learn sound financial principles

## The road ahead

Minor's trusts and strategic distribution rules are important to realize the full value of the investments being made in Native America's youth. For more than 60 years, KeyBank has delivered customized solutions to tribes

from coast to coast. As one of the first financial institutions to create dedicated teams serving this market, we have a deep understanding of how investment strategies and minor's trusts can help each Nation thrive. ■

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**KeyBank and Tribal Youth history**

The KeyBank Foundation, a nonprofit charitable organization funded by KeyCorp has awarded:

- More than \$350,000 in grants to the Oweesta Corporation since 2012
- A \$300,000 grant to the National Center for American Indian Enterprise Development to support Native American businesses nationwide
- \$150,000, over three years, to the Native American Finance Officers Association

**Visit [key.com/nativeamerican](http://key.com/nativeamerican)**

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# How Tribal Enterprises Can Increase Efficiency and Control of Expenses By Investing in an Automated Employee Spend Solution

Tribal enterprises and corporations are an important part of many state economies—from providing employment opportunities and funds to tribe members, to maintaining a rich history and culture, and generating revenue streams. Although Native American communities have been disproportionately impacted by COVID-19, they also have a great propensity for recovery. Due to recent government funding, now is a great time for Tribal Nations and Enterprises to fast-track their digital transformation efforts by investing in technology to help automate manual processes, and shine a light into employee spending and budgets. Explore a variety of ways to spotlight your spend to help your tribal enterprise become more agile and responsive to change.

## Automation

In the world of managing your expenses manually, shuffling through endless amounts of paper receipts and correcting manual errors are common. The time it takes to track down lost expense reports and correct manual errors is affecting your employees' ability to work efficiently.

Heavily manual and paper-based systems don't allow you to see what you're spending, where. And, the global pandemic has impacted all businesses—especially those who might still be using manual, paper-laden processes. Automation can help bring visibility to your tribal spending and also help employees focus their time on what's best for the business, instead of chasing receipts and pushing paper.

## Streamline Management Systems

Across your tribal enterprises, your expense management system is likely far from being streamlined. Oftentimes, you have to go one place to manage travel bookings, another to track spending, and another to process invoices. To add to the complexity, employees are spending more money across more spend categories using more payment methods than ever before. And if you're not connecting all of those processes and all of that spending from every possible source, you won't get a view of your spend until it's too late. This lack of data integration limits spend visibility, prohibiting your enterprise from knowing where to spend or put money back into your tribal communities.

Accurately and efficiently capture all of your enterprise's expenses—whether it's from purchasing cards, travel bookings, invoices, or mileage—to streamline expenses and manage it altogether for a complete view of spending.

## Increase Spend Visibility

On top of slow processes and limited visibility, you may be constantly reacting to expenses and always having to play the bad guy. Wouldn't it be nice if you could control employee spend before it happens?

Fortunately, there may be an opportunity to update your T&E solution with recent government funding. Many enterprises like yours are looking to use these government funds to digitally transform their back-office to reduce costs, combat risks, and ensure business continuity. Delivering more than just automation, SAP® Concur® solutions expand your tribal enterprise's view of spending to securely track, manage, and analyze all employee expenditures, across your business, from spend request to payment, wherever and whenever they happen.

## Improve satisfaction across your diverse tribal businesses.

Spend management is not just about travel, expenses, or invoicing. It's about embracing a connected ecosystem that incorporates your enterprises' current processes and giving your employees simple and secure access with the tools they want to use. Now is a better time than ever to invest in solutions that move your business towards recovery, agility, and future prosperity for your organization.

### ABOUT SAP CONCUR

SAP® Concur® is the world's leading brand for integrated travel, expense, and invoice management solutions, driven by a relentless pursuit to simplify and automate these everyday processes. The highly-rated SAP Concur mobile app guides employees through business trips, charges are directly populated into expense reports, and invoice approvals are automated. By integrating near real-time data and using AI to analyze transactions, businesses can see what they're spending and avoid possible blind spots in the budget. SAP Concur solutions help eliminate yesterday's tedious tasks, make today's work easier, and support businesses to run at their best.

# DIVERSITY DRIVES EXCELLENCE IN MULTI-MANAGER PROGRAMS

We believe that strong performers in the investment industry foster an open and transparent culture which inspires employees to achieve excellence — encouraging diversity to provide differentiated, meaningful insights and innovative solutions.

Institutional investors who are aligned with these cultural beliefs have worked with our team to find managers who demonstrate that holistic commitment to diversity.

Historically, an investment firm's ownership statistics, age and asset level have been the deciding factors in determining diversity. These attributes limit the pool of managers and the view of a firm's overall culture and commitment to diversity.

That's why we use a framework that combines a rigorous investment process with a unique approach to assessing and promoting diversity by expanding the lenses through which diversity is viewed. We evaluate managers beyond historical criteria, capturing additional diversity and engagement metrics, including employee demographics, community engagement and corporate spending.

## DIVERSITY MULTI-MANAGER FRAMEWORK



Source: eVestment, WMBE firms identified by the Multi-Manager Investment Team

Disclosure: All data as of 12/31/22. Note: WMDV stands for Women, Minority, Disabled Veteran owned enterprises. WMBE stands for Women and Minority Owned Business Enterprise. The eVestment universe consists of 127 total firms: 77 female firms, 21 Hispanic American firms, and 29 African American firms. The universe is based on ownership data reported in eVestment.

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Northern Trust Asset Management is a global investment manager that helps investors navigate changing market environments in efforts to realize their long-term objectives.

Entrusted with \$1.0 trillion in assets,\* we understand that investing ultimately serves a greater purpose and believe investors should be compensated for the risks they take — in all market environments and any investment strategy. That's why we combine robust capital markets research, expert portfolio construction and comprehensive risk management in an effort to craft innovative and efficient solutions that seek to deliver targeted investment outcomes.

As engaged contributors to our communities, we consider it a great privilege to serve our investors and our communities with integrity, respect, and transparency.

\*Assets under management as of December 31, 2022.

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This ranking appeared in "Special Report: Investment Outsourcing – Managers see demand for innovation," 7/4/2022 based on P&I data and NTAM OCIO AUM of \$98.7 billion as of 3/31/2022.

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# What's At Stake In High Court's Tribal Bankruptcy Ruling

By Wilda Wahpepah

Tribal sovereign immunity is a core principle of federal Native American law and, from the tribal perspective, a cherished attribute of sovereignty. While Congress may abrogate tribal immunity, under long-standing precedent of the U.S. Supreme Court it must do so expressly and unequivocally.[1]

A case now before the Supreme Court may provide the Supreme Court with an opportunity to revisit the principle by way of interpreting the U.S. Bankruptcy Code. At issue is whether the Bankruptcy Code expresses unequivocally Congress' intent to abrogate the sovereign immunity of Indian tribes. The date for oral argument is scheduled for April 24, 2023 and a decision in the case is expected by the end of June 2023.

The case, Lac du Flambeau Band of Lake Superior Chippewa Indians v. Coughlin, concerns the question of whether a tribe as creditor is bound by the automatic stay available to debtors in a bankruptcy proceeding or whether it is shielded by its sovereign immunity to suit.

Under Title 11 of the Bankruptcy Code, Section 106(a), Congress abrogated the sovereign immunity of governmental units to a dozen code provisions, including the automatic stay intended to stop debt collection while a bankruptcy case proceeds. The term "governmental unit" is defined in Section 101(27) of the code as the:

United States; State; Commonwealth; District; Territory; municipality; foreign state; department, agency, or instrumentality of the United States (but not a United States trustee while serving as a trustee in a

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case under this title), a State, a Commonwealth, a District, a Territory, a municipality, or a foreign state; or other foreign or domestic government.

The circuit courts and lower courts within several circuits have split on the question of whether Sections 106 and 101 of the code abrogate tribal immunity.

The U.S. Court of Appeals for the Ninth Circuit has interpreted the statute as including tribes in the definition of governmental units as an "other ... domestic government," in Krystal Energy Co. v. Navajo Nation in 2004.[2]

Bankruptcy and other courts within the U.S. Courts of Appeals for the Second and Tenth Circuits have reached the same determination.[3]

The U.S. Court of Appeals for the First Circuit agreed with the Ninth Circuit in the newly accepted Coughlin case.[4]

Conversely, bankruptcy and other courts in the U.S. Courts of Appeals for the Third, Sixth and Eighth Circuits have found that the code does not waive tribal sovereign immunity.[5]

Further, no court has expressly decided if tribes are eligible debtors under the code. Governmental units, other than municipalities, may not be debtors eligible for bankruptcy protections because they are excluded from the definition of "person" under the code, except under a handful of limited exceptions.[6]

The question of statutory interpretation at issue in the Coughlin case intersects with the established tenet of

federal Native American law that waivers of sovereign immunity cannot be implied but must be express and unequivocal.<sup>[7]</sup>

The First Circuit's decision acknowledged this standard, citing the Supreme Court's 2000 decision in C & L Enterprises Inc. v. Citizen Band Potawatomi Indian Tribe of Oklahoma and 2014 decision in Michigan v. Bay Mills Indian Community, while at the same time relying on its 2012 decision in Federal Aviation Administration v. Cooper, a case not involving tribes, for the proposition that no magic words are required to find a waiver.<sup>[8]</sup>

Moreover, the First Circuit also found that it need not consider the so-called Native American canons of construction, a principle of federal Native American law holding that statutes regulating tribes should be construed in favor of tribes, because the code was not ambiguous.<sup>[9]</sup>

The Coughlin case has implications for tribes in bankruptcy proceedings, as governments providing for their membership and as entities engaged in commercial enterprises.

First, a decision that Section 106 and Section 101 of the code work in tandem to abrogate the sovereign immunity of tribes could subject a tribe to various provisions of the code.

For example, a tribe could be compelled to appear and participate in bankruptcy proceedings as a third party, be targeted by a trustee seeking to recover money paid to the tribe by a debtor, be prohibited from evicting a lessee of tribal lands under an automatic stay, or be subject to a debtor's confirmed bankruptcy plan, including terms of a plan that might negatively impact a tribe's rights under a lease.

As governments subject to budgetary limitations and restraints, the possibility that a bankruptcy trustee can compel a tribe to return money or assets to a bankruptcy estate can have far-reaching financial implications for a tribe.

Second, if the Supreme Court were to affirm Coughlin's holding that tribes are governmental units under Section 106 of the code, such a decision could perpetuate — without actually deciding — the uncertainty that already exists as to whether tribes and tribal entities are eligible debtors under the code.

Currently, practitioners in the First and Ninth Circuits might presume that tribes likely are governmental units for purposes of debtor eligibility under Section 109 and therefore are not eligible to file for relief as debtors under the code.

Such a presumption limits the ability of tribes to reorganize their commercial operations through an established path that is open to other commercial enterprises and affords nontribal commercial entities in a Chapter 11 reorganization the ability to obtain some level of debt relief and certainty.

Instead, financially distressed tribes and their creditors often have to engage in complicated, costly and time-consuming debt restructurings, without any of the protections afforded debtors under the code. If the court were to decide in Coughlin that tribes are governmental units, the presumption that tribes might not be eligible debtors would have national application.

Additionally, if the court were to affirm Coughlin, such a decision might not address the status of separately organized business entities owned by tribes, such as corporations or limited liability companies. Tribes, tribal entities and their business partners might, even

after a Coughlin decision, operate with uncertainty as to whether tribes or their business entities are eligible debtors under the code.

Third, if the Supreme Court were to affirm Coughlin's holding that Congress need not be express, unequivocal nor even use the word "tribe" when abrogating tribal sovereign immunity, such a decision would impact all tribes, commercial disputes involving tribes and the interpretation of other federal statutes involving tribes.

For example, many commercial agreements involving tribes and nontribal parties include an express waiver of tribal sovereign immunity. Waivers of sovereign immunity are highly negotiated terms and are intended to provide both parties with a clear means to resolve disputes.

When the existence, applicability or scope of a tribe's waiver of sovereign immunity is contested in a commercial dispute, circuit courts have long applied the same principle and required the tribe's waiver to be express and unequivocal.<sup>[10]</sup>

A decision that Congress may abrogate tribal sovereign immunity without expressly stating its intent to do so might be subsequently applied in commercial disputes involving tribal waivers of sovereign immunity or to the interpretation of, for example, federal laws underlying disputes between states and tribes.

While the Coughlin case progresses, practitioners who represent tribes and parties doing business with tribes should be aware that the case has the potential to

- Expand the circumstances under which tribes can be compelled to participate in third-party bankruptcy proceedings and be bound by bankruptcy court proceedings and decisions;
- Influence the question of whether tribes may be eligible to file as a debtor under the code;
- Broaden the circumstances under which a federal statute may be found to abrogate tribal sovereign immunity; and
- Provide new precedent for determining the existence or validity of a tribe's waiver of sovereign immunity in a commercial context.

For the most immediate concern, tribes should invest time analyzing the code to fully understand the nearly five dozen sections of the code to which Section 106 waives the sovereign immunity of governmental units. ■

*Wilda Wahpepah is special counsel at Sheppard Mullin Richter & Hampton LLP.*

*This article is for general information purposes and is not intended to be and should not be taken as legal advice.*

[1] Santa Clara Pueblo v. Martinez, 436 U.S. 49, 59 (1979).

[2] See Krystal Energy Co. v. Navajo Nation, 357 F.3d 1055, 1061 (9th Cir. 2004) (finding Navajo Nation subject to adversary proceeding following tribe's ejection of debtor from tribal property).

[3] See, e.g. Turning Stone v. Vianese (In re Vianese), 195 B.R. 572 (Bankr. N.D.N.Y 1995); In re Platinum Oil Properties, LLC, 465 B.R. 621 (Bankr. D.N.M. 2011); c.f. Mayes

v. Cherokee Nation (In re Mayes), 294 B.R. 145 (B.A.P. 10th Cir. 2003) (suggesting in n.10 that tribes "probably are not" domestic governments under Section 101(27)).

[4] 33 F.3d 600, 605 (1st Cir. 2022) (principles of statutory interpretation and "historical context" show Congress abrogated tribal immunity); cert. granted Lac du Flambeau Band of Lake Superior Chippewa Indians, et al., v. Coughlin, Case No. 22-227 (Jan. 13, 2022).

[5] See e.g. Subranni v. Navajo Times Publ'g Co. (In re Star Group Commuc'ns., Inc.), 568 B.R. 616 (Bankr. D.N.J. 2016); In re Greektown Holdings, LLC, 917 F.3d 451 (6th Cir. 2019); Bucher v. Dakota Finance Corp. (In re Whitaker), 474 B.R. 687 (B.A.P. 8th Cir. 2012).

[6] 11 U.S.C. § 109 (only a "person" or "municipality" may be a debtor under the Code); 11 U.S.C. § 101(41).

[7] Santa Clara Pueblo, 436 U.S. at 59 (interpreting the federal Indian Civil Rights Act); C&L Enters., Inc. v. Citizen Band of Potawatomi Tribe of Okla., 532 U.S. 411, 418 (2001) (tribe retains sovereign immunity unless it has been unequivocally abrogated by Congress or clearly waived by the tribe); Michigan v. Bay Mills Indian Cnty., 572 U.S. 782, 790 (2014).

[8] 33 F.4th at 605 (Cooper "forbids us from adopting a magic-words test").

[9] 33 F.4th at 608.

[10] See, e.g. Ramey Construction Co. v. Apache Tribe of Mescalero Reservation, 673 F.2d 315, 320 (10th Cir. 1982).

# Strategic (Growth Fund) Business Acquisitions by Tribes

**Mr. Gundersen** (Navajo) is the President of Tallsalt Advisors, a financial firm exclusively serving Native nations and their businesses.

**S**trategic acquisitions of businesses by tribes can significantly boost the economic position of a tribal nation and its people while providing an attractive rate of return on the tribe's financial investment. Whether a tribe is considering catalyzing economic growth through an acquisition, startup, new development or joint venture proper evaluation of the strategic considerations as well as strong transaction execution, capital structure, management and governance are essential to maximizing the probability of success and rate of return.

*This article illuminates the role that effective financial assessments and financial management fill throughout the lifecycle of a “deal.”*

## Key Principles

The roles and tools we highlight support two key tenets we hold dear at Tallsalt.

First, financially sound and self-sustaining businesses give rise to stable jobs, taxes and dividends for tribes. If a business is financial unstable, the resulting jobs and taxes are inherently not sustainable.

Second, high financial returns simply mirror the strength of a business in terms of transaction structure, customer relationships, contracts, management, workforce, capital structure, competitive position and governance. The cash profits returned to the tribe and the internal rate of return (IRR) are the primary means to measure and manage the operating performance of a business.



## Pre-Investment & Due Diligence Stage

The evaluation of potential investments in business ventures start with the preparation and review of multi-year financial projections. The projections include income statements, balance sheets and statements

of cash flow at a level of detail necessary to assess the findings of due diligence regarding the market, sales, customers, products and services, operating costs, working capital needs, initial capital costs and ongoing capital expenditures and, ultimately, profit margins. The projections should take into account historical finances (if applicable), the form of the investment, and realistic assumptions of future operating performance.

Ideally, a range of operating performance scenarios will assist the tribe's leadership to assess the range of possible and likely outcomes (a.k.a. risk) and profit margins. If the economics of the overall business are likely to exceed your minimum threshold, the project or deal discussions can proceed to the structuring and negotiation stage.

## Transaction Structure & Negotiation

At this phase, assumptions addressing the proposed terms of the financing, acquisition, JV or investment structure are added to the financial projections. Key decision variables reflected in the financial model include the IRR of the tribe's investment, cash flow requirements and feasibility, timing and amount of dividends and leverage ratios, among others. A table summarizing the *sources and uses of cash* in the investment will reflect the proposed terms of the

transaction or investment. These terms are typically summarized in a preliminary term sheet for the project, investment, acquisition or joint venture.

A flexible financial model will allow the tribe's decision makers to adjust the key terms of the deal to measure the impact on the tribe's IRR and overall risk. This financial tool will assist the tribe, its attorneys, management and advisors to effectively negotiate the definitive terms of the investment and transaction fully-informed with the financial facts.

### **Capital Structure**

The capital structure is typically addressed when the investment, acquisition, project or JV is structured. However, the capital structure of the business may be thought of as a set of terms to determine and negotiate separate from the terms to be negotiated with sellers, co-investors, JV partners and strategic partners. The additional terms may relate to bank loans, tax credits, grants, land leases, operating leases, insurance carriers, federal agencies, and key customers. Furthermore, the capital structure often evolves over time depending on operating performance, conditions in the capital markets and the goals of the owners.

A flexible financial projection model will allow the tribe's decision makers to evaluate the effect that various financing alternatives will have on the expected IRR, cash flow and risk profile of its investment.

### **Budgets & Forecasts**

Once the business is acquired or established, one key tool of effective governance is the measurement of operating performance as a window to the effectiveness of the management team. For this purpose, the financial projections ideally take the form of multi-year annual projections and a rolling twelve-month budget and forecast. The multi-year annual budget provides longer term visibility to enable the board of directors to anticipate and prepare for future challenges and

known events, such as end of tax credit windows, end of compliance periods, debt repayments and divestitures by partners.

We advocate for the use of a *dynamic* rolling twelve-month budget rather than a typical *static* one-year budget. This allows the board and management to make adjustments more easily as market conditions and operating performance varies or changes are made to the business. To be clear, the adjustments to the rolling budget are made to reflect the reality of changes in the business (such as expansions, restructurings, financings, cost reductions), not to accommodate underperformance or overspending by management.

We often suggest the use of the twelve-month rolling budget which specifies the targeted financial performance in tandem with a twelve-month rolling forecast which highlights the expected financial performance.

### **Capital Plan**

We advocate for management teams and boards of directors to establish well-defined plans for the use of cash generated by tribal businesses and projects. The capital plan typically defines the use of free cash flow generated by the business, project or development. Uses of free cash flow often include early repayment of debt, ongoing capital expenditures, reinvestment in growth, dividends and building of cash reserves to strengthen the balance sheet.

\* \* \*

While many internal and external factors determine the success of a business acquisition, new development, start up or joint venture, financial monitoring tools provide management teams and governing boards with the means to measure and manage performance and negotiate favorable terms. The resulting financial stability of the business will provide a stable economic foundation for the tribe's economy. ■



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# Prioritizing Cybersecurity to Protect Tribal Assets

By BOK Financial Native American Services

Cybersecurity is a growing problem, and tribal governments and entities aren't immune. More and more, tribal government leaders are seeing the need for prioritizing cybersecurity efforts.

No business or industry is immune as: ransomware attacks are happening across multiple sectors in large and small businesses alike. But five industries rise to the top as likely targets this year: small businesses, healthcare, government agencies, energy companies and higher education, according to [CDNetworks](#).

In 2019, the Eastern Band of Cherokees had their entire network shut down due to a cyberattack. And in 2021, three affiliated tribes (Mandan, Hidatsa and Arikara Nations) made headlines when their servers were hacked and secure tribal information was essentially held hostage by a ransom request. While there's no official database with statistics of how often tribes are affected by cyberattacks, it's clear they're happening.

It's true that tribal operations at all levels, in all geographies, are exposed to cyber risk. Some people mistakenly believe that casinos are most vulnerable to an attack, specifically ransomware. But that's simply not the case as breaches often occur at other tribal entities. Examples could include an administrative assistant clicking on a bad website link, a retail manager responds to a phishing scheme email, or employees access



company issued tablets on unsecure Wifi. Cyberattacks are ever-evolving and don't discriminate.

Ransomware, just one type of cyberattack, not only compromises data, both yours and that of your clients/members, but also accounts for lost productivity and impacts your reputation.

The best defense against ransomware is preventing it—and it's more important than ever for companies and employees to work to prevent cyber incidents through training and good user behavior.

When it comes to cybersecurity, here are some steps to get started:

- Data backups. In the event of a ransomware attack, companies can use previous system data to restore their network.
- Regular training. Cybersecurity awareness training plays a crucial role in preventing cyberattacks of any kind, and organizations should test employees with phishing simulations to help keep cyber skills fresh. While employees are our biggest asset, if un-trained they can also be a cybersecurity liability. Implement mobile device and remote access policies for employees.
- Be prepared. Make sure you have an incident response and business continuity plan, and routinely test it so you are ready in the event of ransomware.

- [Cybersecurity insurance](#). Consider investing in insurance to cover extortion tactics, liability, data restoration and more. As with any insurance policy, it's best to regularly review and update the policy as the needs or size of your company change.
- Ransomware Guide. CISA and the Multi-State Information Sharing and Analysis Center released a customer-centered [Ransomware Guide](#), aiming at equipping individuals and businesses with ways to protect, prevent and recover from a ransomware attack.
- Stay current with operating system patches, software updates and version controls.
- Evaluate third-party vendor contracts for cyber coverage and appropriate data protection language. Speak with vendors about their cybersecurity and data protection methods, technology and measures

Ransomware isn't going away, and not all ransomware attacks are preventable. But being prepared, having a cybersecurity playbook and robust programs, and investing in educating employees about the importance of cybersecurity safety will go far in protecting your business and clients.

Prevention is important, but it's not a 100% guarantee that your tribal government won't be targeted.

If a cyberattack happens it's crucial to develop an incident notification process and playbook for employees to follow. Part of this will include enacting a disaster recovery plan that includes legal counsel and insurance language. Additionally, the plan should outline how and when to communicate any sort of attack or data breach to tribal members or clients at large. ■

# Tribes Protecting Tribes

By **Tina Duncan**, Director of Business Development  
tduncan@amerind.com, www.amerind.com

## Tribes Protecting Tribes

In 1986, the insurance industry was rocked by instability and financial uncertainty. As a result, Indian Country was faced with limited coverage options and exorbitant premiums with no guarantee that the policies wouldn't be cancelled.

Tribal leaders came together with a radical vision and over 400 Tribes pooled their resources to form an insurance company rooted in the fundamental principle of "Tribes Protecting Tribes." Today, AMERIND remains the only 100 percent Tribally owned and operated insurance provider committed to keeping Tribal money in Indian Country to strengthen tribal nations, citizens, and enterprises.

Through our fiscally sound and culturally responsive insurance products, Tribes can exercise their sovereignty and self-determination over their economies by protecting their people and keeping Tribal money in Indian Country.

## AM Best Accredited

As a Tribal Finance Officer, you carefully validate the financial strength of organizations doing business with your Tribe.

When partnering with AMERIND, you have the added assurance of knowing you are working with a company that has earned the A- (Excellent) rating from AM Best credit rating service for the past four years. As the first Tribal company to seek an AM Best rating, this designation provides policyholders a measure of overall financial, structural, and operational strength as well as an indication of our ability to meet ongoing insurance



policy and contract obligations.

AMERIND's AM Best rating eliminates any hurdles associated with the Tribe's selection of an insurance carrier and provides comfort and confidence in the buyer's decision-making process as some Tribal loan covenants require carriers to have an AM Best rating.

## The Growing Risk of Cybersecurity Attacks

In today's digital world, cyber threats are compromising data, even the security of business operations. Each year, AMERIND customers are hit with cyber-attacks, resulting in the potential of businesses being shut down for an extended period of time.

This threat demonstrates the growing importance of cyber liability coverage to protect Tribal governments and businesses. AMERIND understands the urgency of the situation and has incorporated limited cyber liability coverage into all commercial liability insurance policies, with the ability to purchase increased coverage limits.

Malware is one of the most harmful cyber threats. Short for "malicious software," its goal is to harm a device, extract data, or corrupt files in that device. It can be spread through a physical data transportation device like a flash drive or through an infected link. Once malware gets into the system, it will install harmful software that causes a device to become locked or unusable.

Ransomware is one of the most dangerous types of malware and is a common agent of cyber loss. Ransomware denies legitimate users' access to their computer systems or data until a ransom is paid to the perpetrators. Entities with a limited infrastructure or those that

lack IT specialists are prime targets for attackers. While the right coverage is critical, preventing cyber-attacks through diligent security efforts is the best defense. To protect yourself from a malware attack:

- Perform routine updates to your software
- Conduct regular backups
- Use only strong passwords
- Lock your laptop whenever you are away from your workstation
- Double-check that the sender's email address matches who they claim to be
- Ensure a follow-up conversation to verify whether the sender is who they state they are
- Connect to the VPN when accessing public Wi-Fi
- Contact your IT department if you can't tell if an email is legitimate
- Be vigilant about cyber security, including routine staff training

If your device suddenly slows down, crashes, displays repeated error messages, unexplained toolbars and icons, or sends emails you didn't write, you may have fallen victim to a malware attack. Disconnect from the internet immediately, reset your system password and report the possible breach to the IT department so they can reimagine and restore the device.

### **Looking Ahead**

AMERIND will continue its path of financial strength and Tribal outreach. As always, every business decision we make will be guided by its potential impact on Indian Country. We appreciate your trust in us for the past 37 years and will continue to be there for Tribes for as long as they need us.

We care about the well-being of our Tribes and the vitality of Tribal governments, business enterprises, Tribal members and housing authorities. When Tribes Protect Tribes, we create opportunity for the economic sustainability and growth of Indian Country. ■

### **AMERIND: Insurance Products and Services for Indian Country**

The only 100 percent Tribally owned insurance provider, New Mexico-based AMERIND offers a comprehensive line of affordable insurance products, including:

- **Tribal Governments and Businesses:** Providing commercial property and liability solutions
- **Tribal Workers' Compensation:** Protecting employees while maintaining Tribal sovereignty
- **Tribal Auto Program:** Providing fleet automotive coverage for commercial vehicles
- **Homeowners and Renters Program:** Protecting private property
- **Indian Housing Block Grant Program:** Providing affordable and sustainable insurance coverage

We also provide strategic planning for broadband deployment for Tribal governments and business enterprises throughout Indian Country.

In business since 1986, AMERIND solutions have saved Tribes millions of dollars –while strengthening Native American communities and economies and elevating Tribal sovereignty.

# Cybersecurity for Tribes and Tribal Gaming

**C**ybersecurity is a critical concern for all organizations in today's digital age. With the increasing sophistication of cyberattacks and the proliferation of sensitive digital data, protecting information assets has become more challenging than ever. This is especially true for Tribes and their enterprises, which face unique cybersecurity challenges that are not encountered by other organizations. Three reasons why cybersecurity is different for Tribes are Tribal sovereignty, diverse program services operated by the Tribe, and Tribal gaming.

## Cybersecurity for Tribes is Different

Cybersecurity is different for Tribes due to their sovereignty. As a result, there may not be another government or regulation to backstop issues not regulated at the Tribe level. Non-tribal entities often have state legislation to provide protection and recourse in the event of a cyber-crime. On Tribal land, however, data privacy or other concerns may not be addressed by existing laws or regulations. Where the Tribe itself has laws and regulations related to cybersecurity, the job becomes finding providers who have the specialized knowledge to implement these effectively.

The second reason cybersecurity is different for Tribes is that Tribes offer a wide array of services, such as healthcare and member distributions, making them subject to various regulations and a target for cyber-criminals. As such, Tribes have a unique responsibility to safeguard sensitive data that is central to the provision of these services. Protecting this information from



cyber threats can be challenging due to the large amounts of data involved and the specialized nature of the data itself. Additionally, many Tribes serve populations that are geographically dispersed, which can create additional challenges in terms of securing data and infrastructure.

The third reason cybersecurity is different for Tribes is the operation of Tribal gaming, an enterprise which has a bullseye on it due to the opportunity for financial crimes. Tribal gaming establishments generate significant revenue and are a key economic driver for many Tribes. However, gaming also presents unique cybersecurity risks, such as financial fraud, money laundering, and theft of personal information. On top of that, many gaming establishments are in remote areas, which can make it difficult to find and retain skilled cybersecurity personnel. Finally, Tribal gaming usually involves several gaming vendors, each with their own infrastructure requirements and risk.

## Be Cautious, but Don't Panic

Even though it is vital to consider the real risk of cybersecurity threats to your Tribe, it is important not to overreact, too. Panic over cyber concerns can often lead to unnecessary spending, often on flashy magic, miracle silver-bullet products. Unfortunately, these investments rarely have a positive effect because the real risk was never identified in the first place. Instead, begin by determining actual areas of risk, and then react rationally, with controls designed to cost-effectively mitigate the risk.

Penetration testing is an example of a tool that is often overused, or at least misunderstood. To perform

a penetration test, a cybersecurity firm will poke and prod at your computer system and people to find weak areas that could be exploited by cybercriminals. Almost every penetration test performed properly will result in access to your network. The penetration test technician will then demonstrate how they got in, and usually provide some general recommendations. However, the important question is not whether they can “get in” your network, but rather, whether they accomplished something that would be impactful to your business. In other words, if an attacker can gain access to your public WiFi, disrupt your electronic signage, or cause an outage in one bank of equipment, these are all potentially important cyber events, but arguably less important than, for example, an attacker draining your largest bank account.

Sometimes it is necessary to accept some of these less impactful risks to focus time and energy on the more impactful risks. Realistically, an in-person attack of your infrastructure is less likely than many people think. Far more damage is done every day by ransomware than any of the other risks I mentioned, and yet typically, no resources are dedicated to analyzing that risk. As Tribal leaders, this is an important trap to avoid.

### **Cybersecurity Awareness**

Because the nature of governments is to be very risk adverse, a vital component of effective Tribal cybersecurity is education and awareness. Tribal members, employees, and vendors must be trained on the risks of cyber threats and how to mitigate them. This includes training on how to recognize phishing emails, how to use strong passwords, and how to report suspicious activity. Additionally, Tribes must establish policies and procedures for incident response and disaster recovery, ensuring that they have a plan in place in the event of a cybersecurity incident.

#### **Get Help from Knowledgeable Professionals**

Depending upon the cybersecurity talent available to the Tribe, it may be necessary to look to outside

resources. When the time does come to get help with cybersecurity, focus on finding someone with experience in your industry. If a consultant’s focus is on health-care, police and fire, or industrial controls, these can be cost-effective options if the Tribe owns enterprises within these industries. Other consultants may focus on Tribal government, Tribal Gaming and Hospitality, and Tribal Enterprises, and will be exceptional in these areas. Consulting with experts who have experience in your industry is one of the best ways to quickly uncover the cybersecurity changes that will make you more secure.

Cybersecurity is different for Tribes, so taking a proactive approach to the cybersecurity risks that Tribes face is important. This involves implementing best practices for information security, working closely with vendors and consultants, and educating Tribal employees and members on the risks of cyber threats. While there is no such thing as perfect security, you can get a head start by paying attention to the unique needs of your programs and operations. ■

### **Bobby Simpson, CIO Finley & Cook, PLLC**

Bobby Simpson is a renowned expert in the field of information security and access control. He is the creator of GhostSentry, a powerful compliance system designed to keep businesses safe from unauthorized access to gaming machines. Bobby has worked for Finley & Cook, PLLC, a private accounting firm, for 15 years, serving as their CIO. During his time there, he has led many successful security initiatives and helped the firm stay ahead of emerging threats.

Mr. Simpson holds several certifications that demonstrate his expertise in the field of information security, including the CISSP, GCIH, GCIA, and GPEN. Additionally, he has earned MCSE and CCNA Security certifications. Bobby is a member of the SANS Advisory Board and InfraGard, two organizations dedicated to improving information security practices and infrastructure.

Bobby’s passion for information security has led him

to share his knowledge and skills with others. He has spoken at many conferences and events, including DEF CON Wall of Sheep, BSides, the Oklahoma Cyber Terrorism Summit, and the Information Warfare Summit. He has also presented at several regional events, where he has shared his expertise with others in the industry.

Before joining Finley & Cook, PLLC, Bobby worked as a Security Architect for the Oklahoma Department of Human Services. He has experience working with large and complex infrastructure, such as telecom service providers, and has dedicated the past two decades to information security.

Overall, Bobby Simpson is a respected leader in the field of information security, with a wealth of knowledge and experience. He is committed to helping businesses and individuals protect themselves from cyber threats and stay safe in an increasingly connected world.

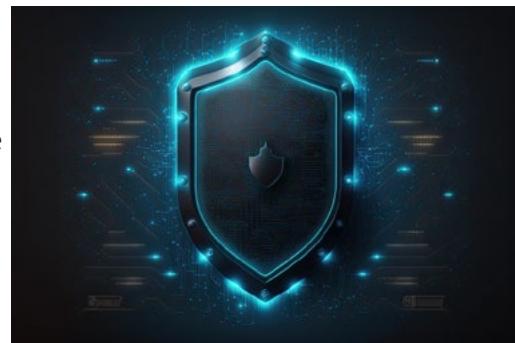


## Protect Your Organization from Cyber Threats with Regular Assessments and Best Practices

It's important to regularly assess your organization's cybersecurity posture and identify areas for improvement to strengthen your defenses against cyber threats.

By taking a proactive approach to cybersecurity and implementing best practices, your organization can minimize the risk of cyber attacks and quickly recover in the event of an incident. It's critical to stay vigilant and invest in cybersecurity measures to protect your sensitive data and maintain the trust of your customers and stakeholders.

Cybersecurity is a continuous process that requires ongoing monitoring and regular updates to stay ahead of evolving threats. Engaging a firm like Finley & Cook can help you identify weak areas and prioritize recommendations for improvement based on your organization's unique needs and risk profile.



**BOBBY SIMPSON**

Highly Experienced Cybersecurity Expert with In-Depth Knowledge of Access Control and Compliance Systems. Bobby has Worked in Information Security for Over 20 Years, and has Earned Multiple Certifications. He is Passionate about Sharing His Knowledge and Expertise, Making Him an Excellent Resource for Anyone Looking to Learn More about Cybersecurity.

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**BREAKOUT SESSION:**

**APRIL 24 4:00PM**

**Cybersecurity: Protect Your Tribe's Assets**

## notes



# Leading People and Investing to Build Sustainable Communities

an executive leadership program  
for tribal leaders & tribal financial professionals



LPIBSC is a collaboration among Harvard Business School (HBS) Executive Education, NAFOA, and AFOA Canada. Its mission is to inspire and support Indigenous finance professionals and leaders, as well as equip them with the tools to lead high-performing, innovative communities or organizations.

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