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 Fall Finance & Tribal Economies conference event
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Presidential Welcome

Sheku Members and Supporters of NAFOA,

Welcome and thank you for attending our 2023 Fall Finance and Tribal Economies Conference. NAFOA is delighted to host our conference at the Gila River Indian Community's

Sheraton Grand at Wild Horse Pass. I thank Governor Stephen Roe Lewis and the tribal council for their support throughout the years. I would also like to thank our 162 member tribes for continuing to advance tribal economies by supporting our mission.

Despite the ongoing political polarization, there are significant legislative priorities for Indian Country that go beyond party lines. Tax reform remains a priority of NAFOA as the current laws create barriers for economic success. NAFOA will continue to advocate that tribal governments receive the same treatment as a state. We advocate for the removal of the essential governmental function test. While tax reform has been a pressing issue for years, we are optimistic that we will see developments made this legislative session. We are seeking parity with states as Indian Nations.

We encourage you to apply to the Leading People and Investing to Build Sustainable Communities Program that will take place in May 2024. This executive level course is taught on site at the Harvard Business School. In 2023 NAFOA received a record amount of applications that represented an extraordinary group of tribal professionals. Kicking off in January 2024 is the new Grants Management for Tribal Entities program. This virtual program is in partnership with the University of New Mexico and is intended

to support tribal efforts to build their capacity in this vital field.

Both programs will strengthen knowledge of our leadership, community investment and tribal capacity building.

NAFOA's board of directors and staff are looking forward to another engaging Fall Conference where our attendees can collaborate and make new connections to grow our community. Our conferences are designed to provide informative

sessions on financial issues and economic opportunities specific to Indian Country. Thank you to our corporate sponsors, federal partners, and conference volunteers. Maintaining our connections as a NAFOA community is the key to our collective strength and success. Our Board of Directors and the NAFOA staff are grateful for your continued support and I am honored to serve as your President.

Yawako,

Cristina Danforth

NAFOA Board President

Louste Dorforter





Wells Fargo is a proud sponsor of the 2023 NAFOA Fall 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 65 years.

Dawson Her Many Horses
Managing Director and Head of Native American Banking
Commercial Banking
702-791-6583
dawson.hermanyhorses@wellsfargo.com

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Cover art - Mike Medicine Horse Zillioux

GILA RIVER INDIAN COMMUNITY

Executive Office of the Governor & Lieutenant Governor "Gila River Strong"

Stephen Roe Lewis
Governor



Monica Lynn Antone Lieutenant Governor

Skeg Tash. As the Governor of the Gila River Indian Community, it is my honor to welcome you to our Community, and to NAFOA's 2023 Fall Finance & Tribal Economies Conference at the Sheraton Grand Wild Horse Pass.

On behalf of myself, Lt. Governor Monica Antone, and our Community Council, we hope that while you are in the Community you are able to experience our O'odham hospitality and that you will have the opportunity to learn how our Himdag ("way of life) is incorporated into our tribal economy and all of the decisions we make on behalf of the Community.

Our Community was established by an act of Congress in 1859 and is now made up of approximately 22,000 members. Our 372,000-acre Reservation is home to the Pima and the Maricopa tribes which are spread across our seven-districts. Building on our Community's O'odham history as the first irrigators of these lands, the Community's 2004 water settlement was the largest in United States history at the time it was signed into law. Building on that settlement, the Community has continued its stewardship of our shudag ("our water") to increase our role in water conservation. Our Managed Aquifer Recharge sites through the Community further our "Return of the River" project which brings water back into the Community along with the plants, animals and environment that sustained our Community for generations.

The Gila River Indian Community was the first to pilot the Indian Self-Determination and Education Assistance Act's, section 105(l) program with the construction of the Gila Crossing Community School. This innovative program has been instrumental in replacing deficient infrastructure throughout the Community and we have since expanded the program to our eligible existing building throughout the Community. As the first to utilize the program, the Community has hosted a large number of tribes interested in learning about the program because it is the Community's philosophy that we should share our experiences as tribal leaders and increase the opportunities for other tribes to access programs in ways that will benefit their members.

The Community is pleased to host NAFOA and deepen the partnership that we have had with NAFOA throughout the years because NAFOA incorporates these same principals of sharing best practices and challenges to further opportunities for all tribal nations. NAFOA has played a pivotal role in advocating for sound economic policy, bringing tribal governments and enterprises together with financial institutions, and creating a space for true collaboration and innovation.

We are pleased to have you as a guest of the Gila River Indian Community and we hope you enjoy our hospitality. Sapo.

Stephen Roe Lewis, Governor Gila River Indian Community

525 West Gu u Ki · P.O. Box 97 · Sacaton, Arizona 85147 Telephone: 520-562-9841 · Fax: 520-562-9849 · Email: executivemail@gric.nsn.us

NAFOA Leadership



President Cristina Danforth, Oneida Nation



Treasurer Amy Minniear, Pechanga Band of Indians



1st Vice President VaRene Martin, Thlopthlocco Tribal Town, Mvskoke (Creek) Nation



Secretary Melanie Benjamin, Mille Lacs Band of Ojibwe



2nd Vice President Celina Phair, Lummi Nation

Susan Masten

Interim Executive Director P: 707-951-2489

E: susan@nafoa.org

Missy Dunne, CMP

Director of Conferences and **Events**

P: 202-579-3372 E: missy@nafoa.org

Bettina Cecilia Gonzalez

Director of Communications P: 202-780-5403

E: bettina@nafoa.org

Cody Harjo

Director of Media and Learning Initiatives

P: 202-407-2368

E: cody@nafoa.org

Nicholas Lovesee

Director of Policy P: 240-751-2585

E: nicholas@nafoa.org

VaRene Martin

Director of Tribal and Corporate Relations P: 619-322-9285

E: varene@nafoa.org

Jaycee Salling

Program Specialist E: jmclean@nafoa.org

Kellen Moore

Policy Communications **Specialist** P: 202-945-7750

E: kellen@nafoa.org

Dustin Van Winkle

Business Manager/Corporate Relationship Specialist

P: 202-568-9494

E: dustin@nafoa.org



| | Sunday, October 1, 2023 | |
|--------------------|------------------------------------|--------------|
| 4:00 PM to 7:00 PM | Registration Opens | Akimel Foyer |
| 5:00 PM to 7:00 PM | Member Tribe Reception and Meeting | Kave 1 & 2 |

| Monday, October 2, 2023 | | | | |
|-------------------------|---|------------------|--|--|
| 7:30 AM to 8:30 AM | Breakfast Registration Opens Exhibit Hall Opens | Akimel 3 & 4 | | |
| 8:30 AM to 11:00 AM | General Session | Komatke Ballroom | | |
| 11:00 AM to 11:30 AM | Break | Akimel 3 & 4 | | |
| 11:30 AM to 12:30 PM | Breakout Sessions | | | |
| | What's New and What's Next with TTAC and IRS | Akimel 1 | | |
| | Nailed It - Tips For Accurate Cash Flow Forecasting | Akimel 2 | | |
| | A Sequel Better Than the Original: SSBCI 2.0 | Kave 1 & 2 | | |
| 12:30 PM to 2:30 PM | Lunch | Komatke Ballroom | | |
| 2:30 PM to 3:30 PM | Breakout Sessions | | | |
| | Cracking the Compliance Code: What Tribes Need To Know About Reporting | Akimel 1 | | |
| | Forewarned and Forearmed: Emergency Response Management | Akimel 2 | | |
| | Recent Audit Trends Impacting This Year's Strategies | Kave 1 & 2 | | |
| 3:30 PM to 4:00 PM | Break | Akimel 3 & 4 | | |
| 4:00 PM to 5:00 PM | Fraud – The Accidental "Employee Benefit" | Akimel 1 | | |
| | Show Me the Money: State of Tribal | | | |
| | Access to Capital | Akimel 2 | | |

Agenda At-A-Glance (continued)

| Tuesday, October 3, 2022 | | | | |
|--------------------------|--|----------------------|--|--|
| 7:30 AM to 8:30 AM | Breakfast Registration Opens Exhibit Hall Opens | Akimel 3 & 4 | | |
| 8:30 AM to 11:00 AM | General Session | Komatke Ballroom | | |
| 11:00 AM to 11:30 AM | Break | Akimel 3 & 4 | | |
| 11:30 AM to 12:30 PM | Breakout Sessions | | | |
| | Economic Paths for Prosperity | Akimel 1 | | |
| | Getting GASB-ed Up | Akimel 2 | | |
| | Byte Size Info: Bridging the Data Gaps | Kave 1 & 2 | | |
| 12:30 PM to 2:30 PM | Leadership Awards Luncheon | Komatke Ballroom | | |
| 2:30 PM to 3:30 PM | Optimizing Tribal Accounting: Don't Let Indirect Costs Cost You! | Akimel 1 | | |
| | Powering Progress: Unveiling Direct Pay Changes for Tribes and Tribal Energy Projects | Akimel 2 | | |
| | Dancing with Wolves: Incorporating Cultural Principles in the Wild World of Investing | Kave 1 & 2 | | |
| 3:30 PM to 4:00 PM | Break | Akimel 3 & 4 | | |
| 4:00 PM to 5:00 PM | Tax Talk: Native American Tax Legislation in the 118th Congress | Akimel 1 | | |
| | Future Proof Your Community with A Diverse Economy | Akimel 2 | | |
| 5:30 PM to 8:00 PM | Closing Reception | Rawhide Western Town | | |



Conference hashtag: #NAFOAFall23

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Can I earn CPE credits at NAFOA's 2023 Fall Finance & Tribal Economies 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.

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 <u>down</u> 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

Learning objectives will be updated once agenda is finalized. For reference, below are past learning objectives.

- Learn about the 105(l) lease program and how to implement it to improve governmental infrastructure and fund new construction projects.
- Understand how Dual Taxation can be a burden of growth for tribal economies and learn about the current ways tribal leaders are working to change this.
- Learn about the most recent updates and changes of the GASB
- Learn about the objectives of the Treasury Tribal Advisory Committee and what major updates have come from their work in the last year.
- Discover what strategies tribal governments should be using as they prepare for long-term budgeting and financial forecasting.
- Learn about how tribal governments can effectively implement their SSBCI allocations.
- Learn what procedures and policies should be in place in order for Tribes to be prepared for federal audits.

CPE FAQ (continued)

- Discover the best practices tribes can implement to protect their communities from future natural and human-induced disasters.
- Learn about the best practices for tribes to use in order to mitigate the risk of detrimental audit findings.
- Understand why attempts at fraud and abuse have been on the rise and how tribes can be prepared to manage these risks.
- Learn about the current state of access to capital options that are available to tribes.
- Understand how the Lac du Flambeau v. Coughlin ruling impacts tribal bankruptcy policy and what tribal leaders should know regarding bankruptcy law.
- Learn about the Gila River's efforts and successes in preserving and protecting their water through their work with federal and state governments.
- Learn about the current economic trends and why these trends are important for Tribal leaders to know about going forward.
- Learn about the current economic challenges and opportunities Tribal will be facing in the future and how they can navigate this situation.
- Learn about the recent GASB pronouncements that tribal leaders should be aware about.

- Hear about how tribal leaders are sharing their data collection and how Indian Country can work together to use their data for future federal actions.
- Learn how to account for indirect costs in order to maximize the federal funds used for Tribal governments.
- Learn about the most recent guidelines on Elective/ Direct pay and how Tribes can access these tax credits for energy projects.
- Understand how tribal business can incorporate their cultural principles to make socially conscious investments and create positive social change.
- Learn about the tribal tax legislation that is being introduced and the current status of these bills.
- Learn how a tribal government can work to diversify their economy and not have to rely on a single industry.

Please visit 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 please contact Christina Morbelli at Christina@nafoa.org.



NAFOA is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors. State boards of accountancy have final authority on the acceptance of individual courses for CPE credit. Complaints regarding registered sponsors may be submitted to the National Registry of CPE Sponsors through its website: www.nasbaregistry.org.

Conference Agenda

October 1st

■ 4:00 PM - 7:00 PM Registration

Akimel Foyer

■ 5:00 PM - 7:00 PM Member Tribe Meeting/Reception

Kave 1 & 2

You must represent a Member Tribe (see Member Tribe list at registration) and have an orange Member Tribe ribbon on your badge to attend. In order to attend this 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.

October 2nd

■ 7:30 AM - 5:00 PM Registration

Akimel Foyer

■ 7:30 AM - 8:30 AM Breakfast

Akimel 3 & 4

■ 8:30 AM - 11:00 AM

General Session

Komatke Ballroom

Opening Prayer and Cultural Sharing

Opening Prayer:

Leland Thomas

Presentation of Colors:

Pee-Posh Veterans Association Color Guard

Cultural Sharing:

Keli Akimel Hua Modk Cudkam

(Gila River Basket Dancers)

NAFOA Welcome Remarks

Cristina Danforth, President,

NAFOA Board of Directors

Host Tribe Welcome Remarks Stephen Roe Lewis, Governor,

Gila River Indian Community

Conference Co-Chair Remarks

Bank of America, Wells Fargo

An Innovative Approach to Funding New Construction in Indian Country

As the 105(l) lease program continues to grow at the Department of the Interior and the Indian Health Service, the opportunities for governmental infrastructure development [in the form of new government buildings] are also growing. This panel will feature two Tribal leaders who have utilized section 105(l) of the Indian Self-Determination and Education Assistance Act to improve existing governmental infrastructure, creating culturally grounded facilities to carry out federal programs. This session will discuss this innovative approach to funding new construction under the 105(l) program. CPE Field of Study: Specialized Knowledge - Technical

Moderator:

Denise Desiderio, Senior Policy Advisor, Akin Gump Strauss Hauer & Feld LLP

Speakers:

Stephen Roe Lewis, Governor, Gila River Indian Community

Rodney Butler, Chairman, Mashantucket Pequot Tribal Nation

Mike Lettig, National Executive, KeyBank Native American Financial Services

Double the Trouble:

Dual Taxation in Indian Country

This session will explore the difficulties created by dual taxation, how it stifles tribal economies and the Federal role in alleviating or eliminating the problem. Our panelists have real world experience with dual taxation and the effort to make meaningful progress to ending it. They will discuss the status of their work and what Indian Country must do moving forward.

CPE Field of Study: Specialized Knowledge - Technical

Moderator:

Aurene Martin, Managing Partner, Spirit Rock Consulting LLC

Speakers:

Michele Scott, Tribal Councilor, Mashantucket Pequot Tribal Nation

Robert Porter, Principal, Odawi Law PLLC
Mark VanNorman, Special Advisor, Indian Gaming
Association

Back to Black...with GASB Chair Joel Black

Joel Black, GASB Chair, will provide an overview of the recent activities of the GASB including a status update on the current technical agenda, emerging issues, monitoring activities, and recently issued pronouncements and due process documents.

CPE Field of Study: Specialized Knowledge – Technical

Speaker:

Joel Black, Chair, Governmental Accounting Standards Board

What You Need to Know: Te Hui Taketake A Te Puna Tahua Toa Summit International Summit to Grow the Indigenous Economy Globally

Ngā Kaitatau Māori o Aotearoa (Māori Accountants Network New Zealand), representing a global collective of indigenous organizations (NAFOA, AFOA (Canada), IFAB (Australia)) will be hosting the next international summit, in July 2024 in Rotorua, New Zealand. The summit will showcase indigenous peoples and businesses from around the world and how we are growing the indigenous economy globally.

Speaker:

Elizabeth Richards, Executive Member, Ngā Kaitatau Māori o Aotearoa

■ 11:00 AM- 11:30 AM

Break

Akimel 3 & 4

Sponsored by:

RSM US LLP
Sheppard Mullin Richter & Hampton LLP
Holland & Knight LLP
TFA Capital Partners
The Mahoney Group
Travois, Inc.
FS Advisors, Inc.

Breakout Sessions

■ 11:30 AM - 12:30 PM

What's New and What's Next with TTAC and IRS Akimel 1

As the Treasury Tribal Advisory Committee (TTAC) is nearing the end to one of their most active years, the members will update Indian Country on their work and plans for the future. The committee has continued to work with IRS and the Treasury on tribal pensions, general welfare exclusion, and dual taxation. Hear about the latest legislation, subcommittee updates, and an introduction of TTAC's newest members. *CPE Field of Study Taxes - Technical*

■ 11:30 AM - 12:30 PM Nailed It - Tips For Accurate Cash Flow Forecasting

Akimel 2

As the economy starts to shift post-COVID, long-term budgeting and ensuring accurate financial forecasting has become more important than ever. Even with inflation rising and available government monies slowing, some tribes are preparing detailed economic forecasts for the future. Find out what factors are being considered, how and why accurate financial and economic forecasts are important, and how you and your tribes can take advantage of them.

CPE Field of Study: Finance - Technical

■ 11:30 AM - 12:30 PM

A Sequel Better Than the Original: SSBCI 2.0 *Kave 1 & 2*

This facilitated discussion will bring together participating Tribal governments seeking to establish lending and investment programs with their SSBCI allocation. Tribal governments communicated a range of lending and investment program types in their SSBCI applications. The session will provide a peer-to-peer learning opportunity for tribal governments and their partners to engage on their respective implementation plans and range of approaches for leveraging SSBCI to support Tribal economies. CPE Field of Study: Specialized Knowledge – Technical

■ 12:30 PM - 2:30 PM

Lunch

Komatke Ballroom Blessing: Leland Thomas

Sponsored by:

Akin Gump Strauss Hauer & Feld LLP AMERIND

Arledge & Associates, P.C.

BOK Financial

Faegre Drinker Biddle & Reath LLP

Finley & Cook, P.L.L.C.

Graystone Consulting, a business of Morgan

Stanley

The Spectrum Group at Morgan Stanley KeyBank

recypanic

Moss Adams LLP

PNC Bank

Tallsalt Advisors LLC

Breakout Sessions

■ 2:30 PM - 3:30 PM

Cracking the Compliance Code: What Tribes Need To Know About Reporting

Akimel 1

The CARES, ARPA, and other federal grants can help drive the mission of the Tribe's foundation forward, but one wrong grant decision can move it in the opposite direction. In this session, grants compliance experts will outline the policies, procedures, and tools that Tribal governments and Tribal entities should have in place to meet compliance requirements, monitor their grant programs, and prepare for the Single Audit. *CPE Field of Study: Auditing (Governmental) - Technical*

■ 2:30 PM - 3:30 PM

Forewarned and Forearmed: Emergency Response Management

Akimel 2

In the wake of climate change and a pandemic, are you still licking your wounds or preparing for the next disaster? Learn from a panel of experienced tribal leaders about how they are creating their emergency response plans, and how to consider costs and best practices. This panel aims to equip attendees with the knowledge to safeguard their tribal citizens from the next natural or humaninduced disaster impacting their communities. CPE Field of Study: Specialized Knowledge - Technical

■ 2:30 PM - 3:30 PM Recent Audit Trends Impacting This Year's Strategies

Kave 1 & 2

This panel will provide insight into recent rate audit experiences and discuss the resulting trends and best practices. The session will dive into areas of heightened audit scrutiny and strategies for mitigating the risk of detrimental audit findings. Additionally, this session will focus on specific rate challenges impacting Indian tribes.

CPE Field of Study: Auditing - Technical

■ 3:30 PM- 4:00 PM

Break

Akimel 3 & 4

Sponsored by:

USI Consulting Group Wipfli LLP Wohlenberg Ritzman & Co., LLC Providence First Trust Company REDW LLC Rockefeller Capital Management Rostte, LLP

Breakout Sessions

■ 4:00 PM - 5:00 PM

Fraud – The Accidental "Employee Benefit" Akimel 1

With the historic level of federal funding provided during the pandemic and the rise in sophisticated cybersecurity scams, circumstances have led to an unprecedented rise in attempts of fraud and abuse at Tribal governments and businesses. Join us as we discuss key risks of fraud that impacts Tribes and how to be prepared. We'll cover real examples of fraud that have occurred, what controls could have been implemented to reduce the risk of fraud, and share strategies on how to prevent and detect fraud. CPE Field of Study: Business Management & Organization - Non-Technical

■ 4:00 PM - 5:00 PM

Show Me the Money: State of Tribal Access to Capital

Akimel 2

2023 has been a rollercoaster for banks and credit markets, which has restricted the ability of many banks to offer sufficient capital to tribal clients. Panelists will discuss the state of access to capital for tribal enterprises and governments and walk through the taxable and tax-exempt options and address grant capital availability. Learn what tribes need to be aware of, what capital options are available, considerations for taxable or tax-exempt options, and how to plan wholistically for a tribe's capital needs.

CPE Field of Study: Economics - Technical

■ 5:15 PM - 7:15 PM President's Reception Grand Terrace





October 3rd

■ 7:30 AM - 5:00 PM

Registration

Akimel Foyer

■ 7:30 AM - 8:30 AM

Breakfast

Akimel 3 & 4

■ 8:30 AM - 11:00 AM

General Session

Komatke Ballroom

Opening Prayer and Cultural Sharing

Opening Prayer:
Antonio "Gohk" Davis
Cultural Sharing:
Pee Posh Bird Dancers

Sovereignty vs Solvency: The Lac du Flambeau v. Coughlin Ruling's Impact on Tribal Bankruptcy Rights

In June, the Supreme Court ruled in the Lac du Flambeau Band of Lake Superior Chippewa Indians v. Coughlin case, holding that Native American tribes are not immune from certain bankruptcy court proceedings, including the automatic stay provision of the Bankruptcy Code. Find out how this decision could impact your tribe, the basics of what tribal staff should be aware of regarding bankruptcy law, and what this means for tribal bankruptcy policy and implementation going forward. CPE Field of Study: Specialized Knowledge - Technical

Moderator:

Christine Swanick, Partner, Sheppard Mullin Richter & Hampton LLP

Speakers:

Jody Cummings, General Counsel, Mashantucket Pequot Tribal Nation

Jennifer Nassiri, Partner, Sheppard Mullin Richter & Hampton LLP

Paul Spruhan, Assistant Attorney General, Navajo Nation Department of Justice

Valuing the Invaluable: Gila River's Water Conservation Wins

The Gila River Indian Community's recent success in securing \$233 million for water conservation infrastructure demonstrates federal, state and tribal parity in action. With this agreement, Gila River is leading the way in managing and protecting sacred waterways that are vital to the future of the region. Gila River's leadership will discuss their key takeaways from this historic negotiation.

CPE Field of Study: Specialized Knowledge - Technical

Moderator:

Don Pongrace, Partner, Akin Gump Strauss Hauer & Feld LLP

Speakers:

Stephen Roe Lewis, Governor, Gila River Indian Community

David DeJong, Project Director, Pima-Maricopa Irrigation Project

Economy: The Best and Worst of Times

Historically low unemployment, high inflation, continued growth defying predictions of recession, are features of an economy unlike recent memory. Ernie Tedeschi, Chief Economist of the White House Council of Economic Advisers takes to the main stage to discuss how the economy is impacting Americans and where we are headed. *CPE Field of Study: Specialized Knowledge – Technical*

Moderator:

Aaron Klein, Economic Advisor, NAFOA

Speaker:

Ernie Tedeschi, Chief Economist, Council of Economic Advisers

■ 11:00 AM - 11:30 AM

Break

Akimel 3 & 4

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Dorsey & Whitney LLP
Lincoln Financial Group
Northern Trust
FORVIS

Breakout Sessions

■ 11:30 AM - 12:30 PM

Economic Paths for Prosperity

Akimel 1

Tribes and Native businesses have had to fight to create their own paths for success. In this whirlwind economy with a jumble of government programs, changing legal and regulatory rules, and quickly evolving technology how should Tribes think about what paths to choose? Experts from across multiple sectors convene to discuss the latest ideas and opportunities facing Tribes in the constantly challenging economy.

CPE Field of Study: Economics - Technical

■ 11:30 - 12:30 PM Getting GASB-ed Up

Akimel 2

This session will delve into details of recent GASB pronouncements that will need to be implemented in the near future as well information about other major ongoing projects. The panel of experts will cover subscription-based information technology arrangements, accounting changes and error corrections, compensated absences, classification of nonfinancial assets, certain risk disclosures, the financial reporting model reexamination, and revenue and expense recognition.

CPE Field of Study: Accounting (Governmental) - Technical

■ 11:30 AM - 12:30 PM

Byte Size Info: Bridging the Data Gaps

Kave 1 & 2

Sovereignty is strengthened as tribes accurately manage the administration and application of their data. A panel of tribal leaders and practitioners will share their own data collection and use projects. The group will further discuss lessons learned from the CARES ACT and ARPA data collection efforts and how to position Indian Country as a cohesive data unit for future federal actions.

CPE Field of Study: Specialized Knowledge - Technical

■ 12:30 PM - 2:30 PM

Lifetime Achievement Awards Luncheon

Komatke Ballroom

Please join us as we honor strong Native American leaders who have brought about positive economic change for both their communities and Indian Country throughout the course of their careers.

Breakout Sessions

■ 2:30 PM - 3:30 PM

Optimizing Tribal Accounting: Don't Let Indirect Costs Cost You!

Akimel 1

Accounting for indirect costs plays a vital role in ensuring accurate and comprehensive financial reporting for tribal entities. Understanding how to structure your direct cost base and indirect cost pool is a key way to help your Tribal government to maximize their use of federal funds. Panelists will discuss strategies to develop comprehensive indirect cost policies and procedures that comply with regulations and share best practices for dealing with Indirect Costs.

CPE Field of Study: Accounting - Technical

■ 2:30 PM - 3:30 PM

Powering Progress: Unveiling Direct Pay Changes for Tribes and Tribal Energy Projects Akimel 2

Last year's Inflation Reduction Act included major policy changes to tax credits and Elective/ Direct Pay. This past June, Treasury and the IRS released new guidelines on these changes. This now increases the financial possibilities for tribes and allows them to access tax credits that have previously only been available to developers. Find out how tribes can access these credits and help lead the energy revolution.

CPE Field of Study: Finance - Technical

■ 2:30 PM - 3:30 PM

Dancing with Wolves: Incorporating Cultural Principles in the Wild World of Investing

Kave 1 & 2

More and more investors are trying to create positive social change, in addition to making money. Tribes are at the forefront of this movement. Find out how they are doing this, why they are making these decisions, and what kind of benefits they are seeing. Experts will talk about successful investor advocacy, the best socially conscious investments they made and the change they are seeing in the world.

CPE Field of Study: Business Management and Organization – Non-Technical

■ 3:30 PM - 4:00 PM

Break

Akimel 3 & 4

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Breakout Sessions

■ 4:00 PM - 5:00 PM

Tax Talk: Native American Tax Legislation in the 118th Congress

Akimel 1

As we approach the halfway point, the 118th Congress introduced bipartisan legislation to address long-standing tribal tax issues. Find out the status of the Tribal Tax and Investment Reform act as well as other legislation touching on key Native and Tribal tax topics. Experts and tribal advocates will address attendees on the details and significance of this legislation and the next steps for Indian Country.

CPE Field of Study: Taxes - Technical

■ 4:00 PM - 5:00 PM

Future Proof Your Community with A Diverse Economy

Akimel 2

Tribes weathered a shock to their economies due to the pandemic's impact on gaming, tourism, and other industries that rely on travel and gatherings. There is a renewed focus on economic diversification among tribes to create resilient economies that are not sustained by a single industry. Panelists will discuss the strategic planning underway to advance tribes past the pandemic and toward a stable and prosperous future.

CPE Field of Study: Business Management & Organization

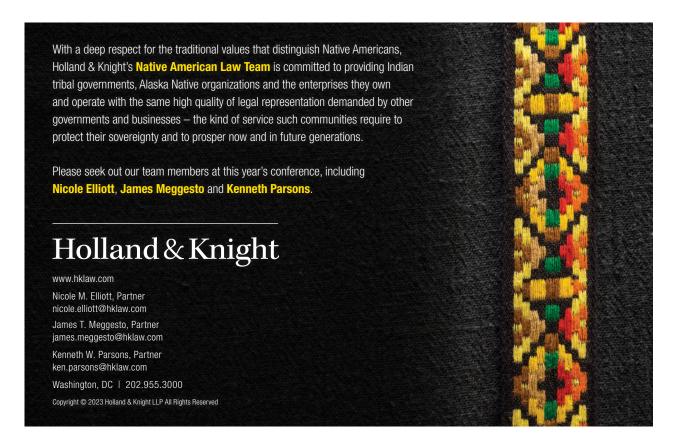
■ 5:30 PM - 8:00 PM

Closing Reception at Rawhide

After two full days of sessions packed with informative and helpful content, round up your colleagues and saddle up for a wild time at Rawhide Western Town. Enjoy an evening of networking, delicious foods, fun games, and even learn some line dancing!

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Conference Speakers

Fatima Abbas

Director of Office of Tribal and Native Affairs U.S. Department of the Treasury

Becky Albert-Breed

Executive Director First Nations Community Financial

Ron Allen

CEO/Tribal Chairman Jamestown S'Klallam Tribe

Jeanna Begay

CFO

Pueblo of Laguna

Dore Bietz

Assistant Director Tuolumne County Office of Emergency Services

Joel Black

Chair

Governmental Accounting Standards Board

Duane Bouligny

Managing Director, Leveraged Finance – Debt Capital Markets Wells Fargo Securities, LLC

Rodney Butler

Chairman

Mashantucket Pequot Tribal Nation

Brian Carroll

Chief Financial Officer Noo-Kayet Investments

Sam Cohen

Government and Legal Specialist Santa Ynez Band of Chumash Indians

Doug Coleman

CPA

Makah Tribe







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President USICG Central & Southern Regions USI Consulting Group

Jody Cummings

General Counsel Mashantucket Pequot Tribal Nation

Dan D'Arrigo

CFO

San Manuel Band of Mission Indians

David DeJong

Project Director Pima-Maricopa Irrigation Project

Denise Desiderio

Senior Policy Advisor Akin Gump Strauss Hauer & Feld LLP

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Chief Financial Officer Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians

Jay Garcia

Tribal Council Chairman Santa Ana Golf Corporation

Tanya Gibbs

Partner Rosette, LLP

Eric Hensen

Harvard Project on Indigenous Governance and Development

Dawson Her Many Horses

Managing Director & Head of Native American Banking Wells Fargo Commercial Banking

John Hosman

Partner FS Advisors, Inc.

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Outreach Lead, State Small Business Credit Initiative (SSBCI) U.S. Department of the Treasury





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Economic Advisor NAFOA

Thomas Lapaz

Acting Emergency Manager Mescalero Apache Tribe

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Mike Lettig

National Executive KeyBank Native American Financial Services

Stephen Roe Lewis

Governor Gila River Indian Community

Casey Lozar

Vice President
Federal Reserve Bank of
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Of Counsel

Hobbs Strauss Dean & Walker, LLP

Amy Minniear

Tribal Treasurer

Pechanga Band of Indians

Hattie Mitchell

Senior Manager **REDW LLC**

John Morseau

Member at Large Tribal Council Pokagon Band of Potawatomi **Indians**

Jennifer Nassiri

Partner

Sheppard Mullin Richter & Hampton LLP

Jennifer Parisien

Policy Advisor, Office of Tribal & Native Affairs

U.S. Department of the Treasury

Ken Parsons

Partner

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Celina Phair

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Senior Project Manager Governmental Accounting Standards Board

Tasha Repp

Partner Moss Adams LLP

Elizabeth Richards

Executive Member Ngā Kaitatau Māori o Aotearoa

Adam Rose

Director of Partnerships and Growth Travois

Michele Scott

Tribal Councilor Mashantucket Pequot Tribal Nation

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Chief Financial Officer Choctaw Nation of Oklahoma

Geoff Urbina

Manging Director KeyBanc Capital Markets Inc.

Mark VanNorman

Special Advisor Indian Gaming Association

Mitch Wander

Deputy Director, Domestic Cyber Policy U.S. Department of the Treasury

Rachel Woods

Under Secretary of Treasury Administration Chickasaw Nation Department of Treasury

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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 of 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

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Colorado River Indian Tribe

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Confederated Tribes of Coos, Lower Umpqua & Siuslaw

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

Kenaitze Indian Tribe

Kickapoo Traditional Tribe of Texas

Kickapoo Tribe of Oklahoma

Kiowa Tribe

La Jolla Band of Luiseño Indians

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Nisqually Indian Tribe

North Fork Rancheria of Mono Indians of California

Nottawaseppi Huron Band of the Potawatomi

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Paskenta Band of Nomlaki Indians

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Poarch Band of Creek Indians

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Port Gamble S'Klallam Tribe
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Wilton Rancheria

Winnebago Tribe of Nebraska

Wiyot Tribe

Yankton Sioux Tribe Ysleta del Sur Pueblo

Yurok Tribe



GILA RIVER INDIAN COMMUNITY

Tribal Description

The Gila River Indian Community is a federally recognized tribe located in south-central Arizona. The tribe is composed of two distinct tribes—the Akimel O'otham (Pima) and the Pee-Posh (Maricopa)—and has approximately 20,000 members. The reservation lies just south of Phoenix and has dedicated acreage to the cultivation of cotton, wheat, millet, alfalfa, barley, melons, pistachios, olives, citrus, and vegetables.

The Gila River Indian Community is made up of seven districts along the Gila River. The Community includes commercial and industrial developments, hotels, casinos, along with a variety of residential developments and housing types.

Today, the Gila River Indian Community is consistently increasing and diversifying its industrial, agricultural, retail, and recreational economic base. The Gila River Indian Community Tribal Government supports programs and services that work to carry the culture of the Community People to the next generation and beyond.

History

The Gila River Indian Community traces its roots to the Hohokam, prehistoric Indians who lived and farmed along the Gila River Basin centuries ago. The Gila River Indian Community was established by an act of Congress in 1859. Later on, it was formally established by the Constitution in 1939.

First there was the land and the Gila River, which flowed westward across south-central Arizona, and the surprisingly fertile Sonoran Desert. Some 6,000 years ago, various cultural groups, labeled the Archaic people, who lived by hunting and gathering along the river's banks, wandered into this realm.

These early inhabitants were joined by people from central Mexico. From this merger arose the Huhugam people, who conducted trade over great distances and became superb farmers. Fed by waters of the Gila River, they constructed some 500 miles of large canals linked to smaller ditches, watering thousands of acres of farmland. Transforming the desert into gardens, the Huhugam grew cotton for clothing, rugs and other textile products, and various crops and other



foods. They supplemented these crops with game, mesquite beans, agave, cactus fruit, and other foods gathered locally from the wild or in trade, enabling them to settle into large population centers. Here their arts flourished, including fine pottery and jewelry.

During the Huhugam's "Classic Period" (circa A.D.1150-1450), this lifestyle supported numerous people, with some villages holding several thousand residents and containing large public buildings, religious centers, and sunken clay courts. But around A.D.1450, for unknown reasons, the urban centers were abandoned.

The missionaries converted most of the population to the Roman Catholic faith, and introduced new crops, new animals, and new technologies—which were adapted to local uses. But the people of the Gila River were largely ignored, and life largely went on little changed, during the Spanish era and in the period following Mexico's break from Spain.

In 1846, southern Arizona fell under the influence of the United States following the Mexican-American War. Between 1849 and 1851, an estimated 60,000 travelers arrived, many starving or near death from dehydration and/or wounds inflicted in battle by the warring Apache to the east and the Yuman tribes to the west.

In the 1840s, the Akimel O'otham offered refuge to the Maricopa tribe, a Yuman tribal people who had been driven eastward from the lower Colorado River area by other Yuman tribes. The Maricopa settled in with the Akimel O'otham, and to this day share the space and resources of the Gila River lands. In 1854, the Gadsden Purchase officially made southern Arizona part of a United States Territory. In appreciation for the important role the Akimel O'otham played in America's westward expansion, in 1859 Congress established the first reservation in Arizona.

However, the Community's lifeblood–Gila River water–was cut off in the 1870s and 1880s by construction of upstream diversion structures and dams by non-Native farmers. From 1880 to 1920, the community faced mass famine and starvation. The federal government stepped in and doled out canned and processed food by the ton. The change in diet proved disastrous, leading to extremely high rates of obesity and diabetes. With almost no jobs available on the reservation, and the loss of cash crops, the people of the Gila River faced widespread poverty as well.

Conditions finally began to improve in the 1930s, when the U.S. government completed Coolidge Dam on the upper Gila River, creating the San Carlos Reservoir. The project included a canal and pipe system to deliver some of this lake water to our reservation, restoring a portion of farming practices. This was the beginning of a long climb out of the economic trenches. Men began to find work off the reservation following World War I and World War II as the introduction of cars made travel to Phoenix possible. Eventually, small businesses began to appear on the reservation, launched both by the community and individual tribal members. Schools, health centers, and new housing appeared. Income levels slowly grew, and famine was erased. These trends continue today as



the Gila River Indian Community looks toward a promising future.

Governance

The Gila River Indian Community government consists of three branches: Executive, Legislative, and Judicial. The Executive Branch includes the Governor and Lieutenant Governor who are both elected for a three-year term. There are two separate units of tribal government within the Executive Branch: the Administrative Offices and the Programmatic Departments. The Governor and Lieutenant Governor oversee the two units of tribal government.

The Legislative Branch consists of 17 elected members of the Tribal Council and seven standing committees. These committees focus on developing a well-diversified economic base, building effective community service programs, and promoting cultural vitality.

The Gila River Indian Community Court was established by the Gila River Indian Community Constitution and Bylaws on March 17, 1960. The mission of the Judicial Branch is to provide effective and fair administration of justice and quality customer service for the benefit of the Gila River Indian Community.

Tribal Enterprises

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Gila River Resorts & Casinos

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Each resort and casino offers several dining and entertainment options.

Huhugam Heritage Center

The Huhugam Heritage Center is arguably the Nation's finest tribal facility for the preservation and display of important cultural artifacts and art. It has a climate-controlled repository for prehistoric and historic artifacts, cultural materials, and vital records.

Koli Equestrian Center

Koli Equestrian Center, located in the heart of the Gila River Indian Reservation, offers miles of breathtaking scenery and horseback riding trails. With wide open views and landscape, you just might be able to see the wild horses.

Ko'Sin Restaurant

Ko'Sin features a fusion of American and Southwestern cuisine. Ko'Sin, meaning 'kitchen' in the Akimel O'otham language, delights guests with delectable dishes amid stunning views of the Sierra Estrella Mountain Range. Desert-inspired finishes and Native American art immerse guests in the local culture.



Rawhide

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Gila River Telecommunications Inc.
Lone Butte Development Corporation
Pima Leasing & Financing Corporation
Toka Sticks Golf Club
Wild Horse Pass Development Authority

Tribal Representation

Stephen Roe Lewis, Governor Monica Antone, Lieutenant Governor Gary Mix, Community Treasurer Thomas Murphy, Acting General Counsel

House Representation

Elijah Crane, Republican, District 2, 2023-2025

Senate Representation

Mark Kelly, Democrat, 2020-2029 Kyrsten Sinema, Independent, 2019-2025



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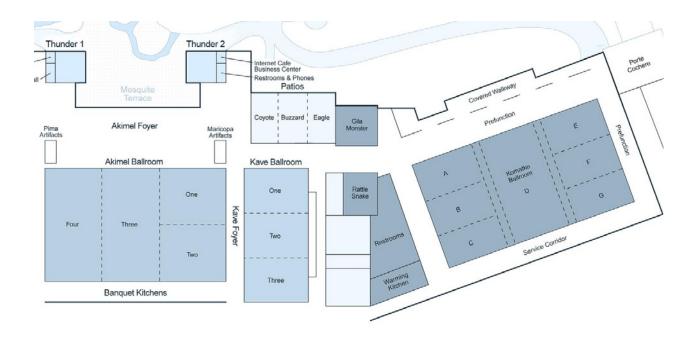
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MICHIGAN

44 Cesar E. Chavez SW Suite 250 Grand Rapids, MI 49503 (616) 655-1601 tgibbs@rosettelaw.com

OKLAHOMA

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Conference Arts





Robert Dale Tsosie

Born in 1960 and raised in Santa Fe. New Mexico, Robert is 1/2 Picuris Pueblo and ½ Navajo. He apprenticed under Charles Pratt and Bruce La Fountain from 1987 to 1991. Robert received the T.C. Cannon award for Artistic and academic excellence upon graduation with an AFA from the Institute of American Indian Arts in Santa Fe, New Mexico. Since then he has won Best of Class, Best of Division, Raw Materials Award, numerous 1st Place Awards, and Sculpture Judge at the Santa Fe Indian Market. This year, 2016, he won Best of Class, 1st Place, Judges Award, at the Heard Museum's, Indian Art Fair, Phoenix, AZ. He has won numerous 1st Places at other Museum Art Shows throughout the United States.

Robert received the Allan Houser Award for artistic Excellence from the State of New Mexico in 1994. He also was a recipient of the Santa Fe Indian Market Fellowship Award that same year. In 1995 Robert won the Santa Fe Indian Market's commission to create a Lifetime Achievement Award sculpture to honor the lifetime Achievement of Native American Artists. He taught sculpture at the Institute of American Indian Arts, Santa Fe, NM in 1997-1998. Robert was inducted into the Indigenous Sculptors Society in 2002. He taught stone sculpture at the Poeh Arts Center in Pojoaque Pueblo, New Mexico from 1994 until 2008. He returned to teach once again at the Poeh Center from 2014 to 2016.

Public collections include the New Mexico State Capitol, Santa Fe, NM, the Museum of Indian Arts & Culture, Santa Fe, NM, the Institute of American Indian Arts Museum & Campus, Santa Fe, NM, Hotel Santa Fe, Hilton's, Buffalo Thunder Resort. Pojoaque Pueblo, NM, U.S. Grant Hotel, San Diego, CA, All Indian Pueblo Cultural Center, Alb. NM, Sterling Bank & Trust, Southfield, MI, Fort Lewis College, Durango, CO, Taos / Picuris Health Center, Taos Pueblo, NM, & Phoenix City Hall, Phoenix, AZ.

Robert is represented by McCall Fine Art, 225 Canyon Road, Santa Fe, N.M. He lives in Ribera, New Mexico with his wife and three kids.



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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

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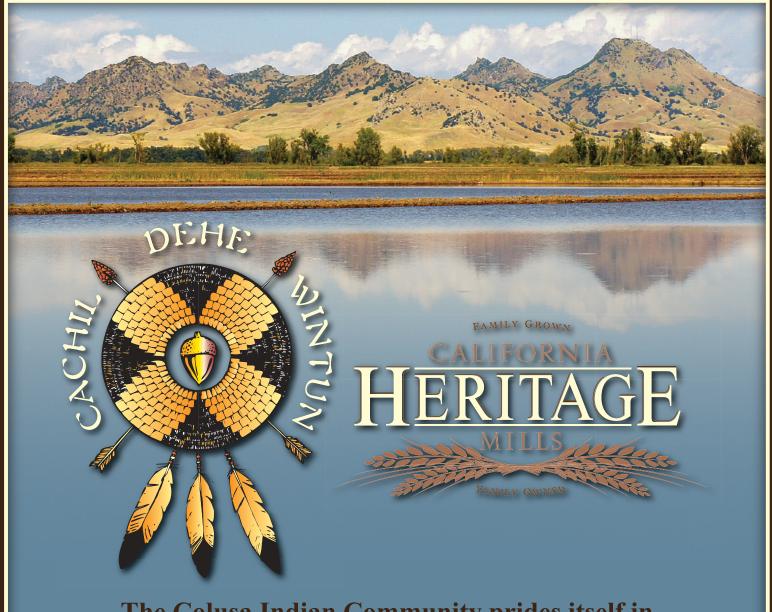
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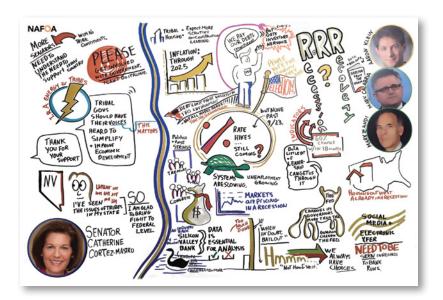
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Graphic Illustrator



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.





GRANTS MANAGEMENT FOR TRIBAL ENTITIES

The Grants Management for Tribal Entities course provides participants with a comprehensive understanding of the principles, practices, and strategies required to effectively manage grants within tribal communities. This course is offered through Anderson School of Management at the University of New Mexico, in partnership with NAFOA.



DATES

Jan 8 - Mar 1, 2024

30 Hours Online, Self Paced



WHO SHOULD ATTEND

- Tribal leaders and council. members
- Tribal administrators and program managers
- Grant managers and coordinators within tribal organizations
- Individuals interested in developing skills for effective grant management within tribal contexts

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National Director of Tribal Services
Tribal Human Resources Professional
Email - Crystal.Hill@usi.com
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NAFOA Institute Update



he fall is always a time to pause for reflection, and at NAFOA it is our opportunity to consider the impact of our educational programming for our communities. We strive to build programs that supports not just today's workforce, but the collective long-term vision of creating tribal capacity that resonates 3 years, 30 years, and 300 years from now. We appreciate the time and dedication of all our 2023 NAFOA Institute program participants. Whether you participated in one of our universitypartnered programs, attended a webinar, or nominated a Leadership Summit attendee, our long-term vision is only possible with your commitment to learning. Our record-breaking numbers in program applications and webinar attendance this year are a clear indication that we are heading in the right direction. NAFOA is thrilled to announce that we will be offering even more learning opportunities starting next year.

Every year, the same themes emerge from our NAFOA Leadership Summit program surveys. These talented young adults are impressed and motivated by the thought leadership that gathers during our conference and the generosity of our community. This generosity

includes donor support along with the guidance of our conference attendees and volunteer speakers who offer encouragement and advice. It is the collective effort of the NAFOA community that makes their three days with us meaningful. In 2024, we will select 10 young adults to participate in the NAFOA Leadership Summit. We depend on our community nominations to help identify talented young adults to ensure diverse tribal representation. We ask that you encourage the young adults in your community to apply. Together, we can foster the growth of the next generation of tribal leaders and advocates for economic progress.

This past year, NAFOA Institute staff resumed our travels to engage with tribal students and young professionals. Highlights include attending the UNITY conference, traveling to Northeastern State University, East Central University, and meeting with the Potawatomi Leadership Program participants. These reconnections are important steps that are helping us to move past the uncertainties and cancellations caused by the pandemic. Furthermore, these meetings provide us with valuable opportunities to actively listen to the needs and aspirations of our young people.

Institute Update (continued)

Looking forward, NAFOA is sponsoring a new virtual program, the Grants Management for Tribal Entities launching in January 2024. This 8-week program is designed for tribal leaders, administrators, grant managers, and individuals responsible for overseeing grant-funded projects. This new course is offered through the Anderson School of Management at the University of New Mexico.

We know that our role is to provide continuous learning opportunities that support Indian Country's collective sovereignty. This can only be accomplished with the investment of time, thought leadership, and funding from our community. By contributing to the NAFOA Institute, you are not just aiding deserving individuals; you are investing in the future of tribes and helping to create opportunities for generations to come. Thank you once again for your participation and support of our NAFOA Institute Programs.

Thank You to our 2023 NAFOA Institute Donors













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.





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Fall 2023 Policy Report

Elect/Direct Pay

ne of the most important provisions in last year's Inflation Reduction Act (IRA) were the changes made to the Elective/Direct and Transferability credit delivery mechanisms now allowing tribal governments to take advantage of clean energy tax credits. Secretary of the Treasury Yellen stated "The Inflation Reduction Act's new tools to access clean energy tax credits are a catalyst for meeting President Biden's historic economic and climate

goals. They will act as a force multiplier bringing governments and nonprofits to the table. More clean energy projects will be built quickly and affordably and more communities will benefit from the growth of the clean energy economy."

The IRA opened up 12 new elective pay clean energy tax credits including the major Investment and Production Tax credits as well as credits for Carbon Sequestration (45Q), Clean Hydrogen (45V), and Advanced Manufacturing (45X). On June 14th the Department of the Treasury sent around a "Dear Tribal Leader" letter to let tribal



leaders know that there have been Notices of Proposed Rulemaking (NPRM) touching on the elect pay tax credits otherwise known as Section 6417. The following week the Federal Register (88 FR 40528 & 88 FR 40496) printed the NPRM, as well as notices of public hearings that were held in August.

So what is elective pay? From the IRS Tribal Fact Sheet:

Elective pay allows applicable entities including tax-exempt and governmental entities that would otherwise be unable to claim certain credits because they do not owe federal income tax to benefit from some clean energy tax

credits. By choosing this election the amount of the credit is treated as a payment of tax and any overpayment will result in a refund.

For example because of the Inflation Reduction Act, a local government that makes a clean energy investment that qualifies for the investment tax credit can file an annual tax return with the IRS to claim elective pay for the full value of the investment tax credit as long as it meets all of the requirements including a pre-filing registration requirement. As the local government would not owe other federal income tax the IRS would then make a refund payment in the amount of the credit to the local government.

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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 2022 Best Lawyers in America for Native American Law by **U.S. News and Best Lawyers**.

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NAFOA has since partnered with the Department of the Treasury, Chairman of the Senate Finance Committee Ron Wyden (D-WA), Chairman of the Senate Committee on Indian Affairs Brian Schatz, and Senator Heinrich (D-NM), as well as other offices to produce information webinars on the different Elect/Direct Pay provisions that tribes now can access. At the time of printing further information is expected to be forthcoming and both Treasury and the IRS are expected to answer public comments and consultation requests that were closed in August.

Direct Pay has the potential to help many tribes take control of their energy future and help unlock the renewable energy possibilities that tribes possess. NAFOA looks forward to continuing to engage with stakeholders both inside and outside the government and will work to bring the latest news on these provisions as it is released.

Budget & Appropriations

During the end of July, both the House (H.R. 4821) and Senate (S. 2605) Committees on Appropriations passed their Interior Environment





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and Related Agencies appropriations legislation. Both bills include increases over the FY '23 enacted levels (roughly \$1.9b) with the House legislation containing slightly more (\$2.01b vs \$1.934b), however both were short of the President's request of \$2.257b.

Earlier this year NAFOA told Congressional stakeholders that it supports reclassification of a number of Department of the Interior tribal programs from discretionary to mandatory spending. This would give tribes a greater degree of certainty when it comes to receiving certain government funds and hopefully increase the accuracy of tribes financial forecasts and future budget planning. The President's budget calls for a reclassification of Contract Support Costs and Payments for Tribal Leases (Section 105*l*). The importance of reclassification is clear from the Senate's report (S. Rept. 118-83 accompanying S. 2605) on Interior Appropriations:

Due to findings in recent court decisions (see Salazar v. Ramah (132 S. Ct. 2181 (2012))



and Maniilaq Ass'n v. Burwell in both 2014 (72 F. Supp. 3d 227 (D.D.C. 2014)) and 2016 (70 F. Supp. 3d 243 (D.D.C. 2016))), payments for contract support costs and 105(l) leases appear to create a type of budgetary entitlement that is typically not funded through discretionary appropriations. For contract support costs the Indian Self-Determination and Education Assistance Act [ISDEAA] of 1975 requires the government to enter into contracts and leases with any willing Tribe and requires that the government pay a Tribe's costs. Section 105(l) of the ISDEAA requires the Secretary, at the

request of a Tribe, to enter into a lease with the Tribe for a building used to provide services under the ISDEAA. Reclassification of these costs from a discretionary appropriation to a mandatory appropriated entitlement has been under discussion since the Supreme Court issued its decision in 2012.

Tribally Chartered Corporations

In May the Department of the Treasury sent a "Dear Tribal Leader" letter inviting consultation submissions on the tax status of tribally chartered corporations. From the Department's request:



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In consultations, Treasury Tribal Advisory Committee [TTAC] meetings and engagements with the Treasury, Tribal governments have requested guidance on the tax status of Tribally chartered corporations to provide certainty for Tribal economic development to support the generation of Tribal government revenue. These requests for guidance have increased as Tribal governments have become eligible for tax credits via the elective pay mechanism under the Inflation Reduction Act. During the November 2022 Tribal consultations on the Inflation Reduction Act, many Tribes requested that their enterprises be able to access these tax credits bringing into question the underlying status of the Federal tax status of Tribally chartered corporations.

As part of the request, NAFOA, in partnership with NCAI and the Tribal Economic Tax Reform Advocacy Alliance (TETRAA), submitted consultation comments in August. Those comments are included in this issue of the Navigator and in addition to answering questions posed by Treasury makes the following five recommendations:

1. Income earned by Tribally chartered corporations and limited liability companies that are 100% wholly owned by Indian tribes (whether directly or indirectly) should not be subject to federal income taxation regardless of the source of income.

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- **2.** Prior IRS Guidance declaring that Tribally owned state chartered entities are subject to federal income tax should be withdrawn if the state chartered entity is directly or indirectly 100% wholly owned by the Tribe.
- **3.** The general rule of "pass through" tax treatment for Tribally owned entities should only apply to Tribally chartered entities that are at least 51% majority owned by an Indian tribe.
- 4. Tribally chartered entities that are owned by individual Indians should carry the same tax status as the individual Indians, including the preservation of treaty and statutory tax immunities.
- 5. Income earned by Tribally chartered entities that are owned jointly by one or more Indian tribes or by an Indian tribe and an Alaska Native Corporation should not be subject to federal income tax at the entity or ownership level.



Tribal Tax Investment and Reform Act

Starting this year, NAFOA has been working with Congresswoman Gwen Moore (D-WI) and her office on the Tribal Tax and Investment Reform Act. This legislation was previously introduced by Congressman Kind (D-WI) in each Congress since 2013 in the 113th Congress, and in the 117th Congress was H.R. 4054. When Congressman Kind retired at the end of last year, Congresswoman Moore was asked and agreed to take leadership for the issue in the House. Since then NAFOA

has been working with her office and other tribal stakeholders on re-introduction of the legislation. At the same time NAFOA has been working with Senator Cortez Masto (D-NV) on the Native

American Tax Parity and Relief Act, which is a similar bill to the Tribal Tax and Investment Reform Act, but with some different provisions and language. Last Congress, Senator Cortez Masto introduced the legislation (S. 5048) in the Senate for the first time and NAFOA has been working with both the House and Senate to ensure that this is the Congress that the legislation gets passed.

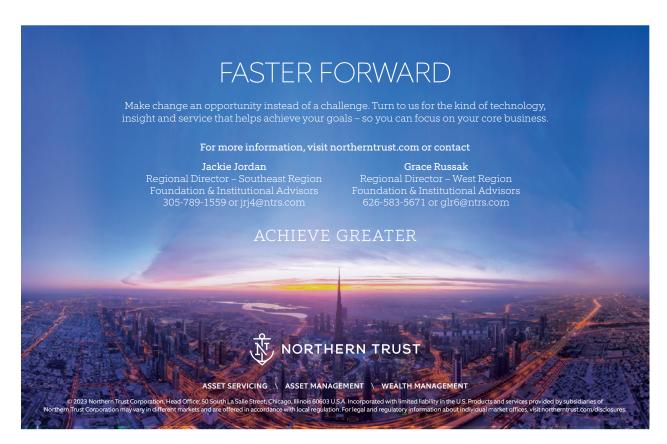


TRIBAL TAX PRIORITIES BEING DISCUSSED IN CONGRESS

Members in Congress are considering legislative proposals to amend the Internal Revenue Code to ensure that Indian tribal governments are treated consistent with state and local governments under federal law. Additionally, this bill removes undue barriers to tribal economic development. The federal government has trust obligations and treaty responsibilities to Native Americans and tribes, that are founded in the US government's duty to uphold tribal sovereignty and self-governance. Congress can better address unique problems and

challenges of Tribal Nations and empower the sovereignty of Indian tribes.

• Treatment of Tribes as States with Respect to Bond Issuances and Excise Taxes. This proposal repeals the "essential government function" (EGF) test that limits the ability of Tribes to issue governmental bonds. This proposal also establishes private activity bond volume cap rules to enable tribal governments to issue private activity bonds for economic development



purposes, like state and local governments can. This proposal places Tribes on equal footing with state and local governments with respect to select excise taxes, including manufacturing and communication excise taxes.

• Treatment of Pension and Employee Benefit Plans Maintained by Tribal Governments. This proposal amends the Internal Revenue Code to treat tribal government pension and employee benefit plans in the same way as state government plans. This proposal removes the "essential government function" requirement and "commercial" activity test that applies

to tribal plans, while adding uniform federal protections and fiduciary standards that protect beneficiaries. This proposal also (1) ensures that tribal public safety employees are entitled to the same retirement age distribution rules that apply to state and local public safety employees, (2) grandfathers certain "457" plans that were improperly sold to tribal governments, and (3) exempts Tribal 401(k) plans from the new long-term, part-time employee eligibility rules, consistent with the long-standing exemptions available to state, local and other governmental retirement plans.



- Treatment of Tribal Foundations and Charities like Charities Funded and Controlled by Other Governmental Funders and Sponsors. This proposal addresses an unintended disparity under the public charity classification rules that makes it difficult for tribal nations to form and fund Section 501(c) (3) nonprofit organizations outside of private foundations by (1) treating tribal funding as public support for purposes of Section 170(b), and (2) treating charitable organizations formed to support Indian tribal governments the same
- as organizations formed to support state, local and federal government for purposes of Section 509(a)(3). 2)
- Improvement of Effectiveness of Tribal Child Support Enforcement Agencies by Parity of Access to the Federal Tax Refund Offset Program. This proposal permits tribal child support enforcement agencies to enforce orders for support through withholding of past due child support obligations through federal income tax returns of parents with past due obligations. Currently, only state child support collection

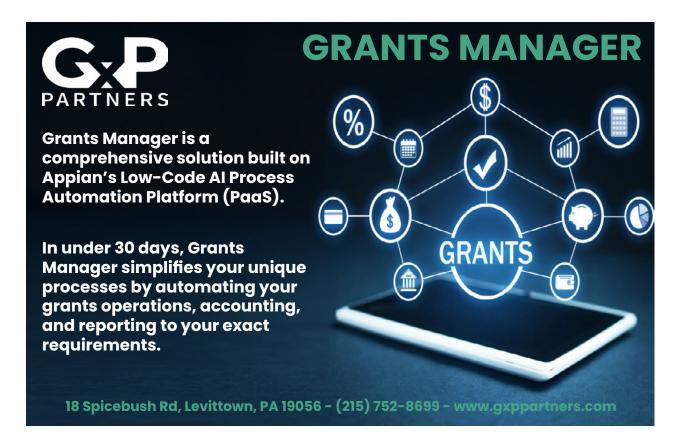


agencies can access the offset program that authorizes the Department of the Treasury to withhold from tax refunds amounts owed for past due child support payments.

 Recognition of Indian Tribal Governments for Purposes of Determining Under the Adoption Tax Credit Whether a Child Has Special Needs. Tribal nations have jurisdiction over adoption proceedings involving their citizens. However, currently only states to designate children as "special needs" for purposes of claiming the adoption tax credit. A special needs determination automatically entitles adopting parents to the maximum amount of the credit, irrespective of the actual expenses incurred. This proposal would permit adopting parents to receive an Adoption Tax Credit when a tribal court makes a determination that a child has "special needs." Adoptions of children with special needs generally means children who are considered difficult to place for adoption.



- Creation of New Markets Tax Credit for tribal statistical areas. This proposal creates an annual \$175 million New Markets Tax Credit for low-income Tribal communities and for projects that serve or employ Tribe members. NMTC Program attracts private capital to economically distressed communities by providing tax credits to investors. This proposal addresses the low rate of NMTC deployment in Indian Country through a credit set-aside.
- Increased effectiveness of Tribal Low-Income Housing Tax Credits (LIHTC) in Indian Country. The LIHTC program provides tax incentives to developers to create affordable housing, but credits are often unavailable to tribes. This proposal modifies the definition of difficult development area to include an Indian area for the purposes of determining eligible basis thereby explicitly including Tribes in the LIHTC program criteria.



- Clarification that Tribal General Welfare Benefits are not unfairly categorized as income related to Supplemental Social Income eligibility or benefit amounts. The Tribal General Welfare Exclusion Act (TGWEA) excludes from gross income, for income tax purposes, the value of a tribal general welfare benefit. This proposal excludes these benefits from Supplemental Social Income eligibility and benefit amount determinations.
- Modification and Extension of Indian employment tax credit. This proposal extends and updates the expired Indian Employment Tax Credit, a credit for employers who hire Tribal members or their spouses who work on a reservation and live on or near a reservation. This credit is important to addressing high unemployment rates on many Tribal Nations and supporting tribal communities and businesses. The proposal increases the wage amount an employer can offset from \$20,000 to \$30,000 and simplifies the credit formula.



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• Exclusion from gross income for payments under Indian health service loan repayment program and Indian health professions scholarships program. These proposals make health professionals at the Indian Health Service eligible for recruitment and retention tax incentives available to other public sector health professionals.

Carcieri

NAFOA is a supporter of the necessary fixes required from the *Carcieri* decision. On June 18, 1934, Congress passed the Indian Reorganization Act (IRA) to protect tribal sovereignty and to help restore lands to tribes. For 75 years all federally recognized tribes had the right under the IRA 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.



In 2009, however, the U.S. Supreme Court overturned that long established precedent in Carcieri v. Salazar. In addition to generating expensive litigation for certain tribes the Carcieri decision caused uncertainty and unequal treatment among federally recognized tribes operating on existing tribal trust lands. Last April NAFOA joined other intertribal organizations 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 House advanced the legislation, which passed on a 302-127 bipartisan vote. NAFOA is hopeful that this will be the Congress that passes this important legislation.



WEBINAR INFORMATION

In June the Supreme Court ruled in Lac du Flambeau v. Coughlin 8-1 that Native American tribes are not immune from certain bankruptcy court proceedings including the automatic stay provision of the Bankruptcy Code. The following month NAFOA hosted a webinar with attorneys from the Navajo Nation and the law firm Sheppard Mullin to discuss what the ruling means, what tribes should be aware of going forward and the impact this ruling will have on tribes going forward. The speakers also discussed bankruptcy basics and answered questions from

webinar attendees about the impact this case will have on Tribal Governments.

Last year the Inflation Reduction Act (IRA) made important changes in infrastructure and energy development creating a new credit delivery mechanism that tribes can take advantage of known as Elective or more commonly Direct Pay. This past June the Department of the Treasury and IRS released proposed guidance for the IRA's Direct Pay provisions. On August 22nd NAFOA co hosted a webinar on the IRA's Direct Pay provisions with the Department of the Treasury



and with special introductions by Senate Finance Committee Chairman Wyden, Senate Committee on Indian Affairs Chairman Schatz, Treasurer of the United States Chief Lynn Malerba, and IRA Chief Implementation Officer Laurel Blatchford. After their presentation, officials in the Treasury answered questions on the availability of the Direct Pay tax credits and what they can be used for. All of our previous policy webinars can be found at nafoa.org/policy

TTAC

Since our last conference the Treasury Tribal Advisory Committee (TTAC) has held their eleventh and twelfth periodic meetings; on June 14, 2023 and September 7, 2023. The Treasury Tribal advisory committee introduced their two newest members, Chairman Rodney Butler (Mashantucket Pequot Tribal Nation) and Cora White Horse (Oglala Sioux Tribe). The TTAC plans on meeting at least three times next year with their next meeting this winter 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.

Looking ahead

The date circled on everyone's calendar in DC is November 5th, 2024. We are well into the election cycle with the Republican primary debates already underway. Due to the split control in Congress and the lack of incentive for bipartisan cooperation we do not expect major movement on most non-funding/budget legislation between now and November of next year.

However, that does not mean that we expect nothing important to happen or feel that accomplishing NAFOA's legislative priorities is impossible. While limited this year's appropriations legislation, as well as other potential vehicles next year such as annual bills like the NDAA offers opportunities to advance possible changes like the Tribal Tax and Investment Act. We are working 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 so much of Indian Country.

There are a lot of opportunities for NAFOA going forward. We are excited to be going into next year's major election cycle with a strong sense of optimism and are extremely thankful to be working with our friends in Congress and the Administration for the betterment of all of NAFOA's members and Indian Country.

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.

Susan Masten

Interim Executive Director susan@nafoa.org (707) 951-2489

Nicholas Lovesee

Director of Policy nicholas@nafoa.org (240) 751-2585

Kellen Moore

Policy Communication Specialist kellen@nafoa.org (202) 945-7750

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.





Committees In The U.S. Congress

House Senate

Standing Committees

Agriculture
Appropriations
Armed Services
Budget

Education and the Workforce Energy and Commerce Ethics

Financial Services
Foreign Affairs
Homeland Security
House Administration

Natural Resources

Oversight and Government Reform

Judiciary

Rules

Science, Space, and Technology
Small Business

Transportation and Infrastructure Veterans' Affairs

Ways and Means

Agriculture, Nutrition, and Forestry Appropriations Armed Services

Banking, Housing, and Urban Affairs
Budget

Commerce, Science, and Transportation Energy and Natural Resources Environment and Public Works

Finance

Foreign Relations

Health, Education, Labor, and Pensions Homeland Security and Governmental Affairs

Judiciary

Rules and Administration
Small Business and Entrepreneurship
Veterans' Affairs

Special, Select, and Other Committees

Permanent Select Committee on Intelligence Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi Aging Ethics Indian Affairs Intelligence

Joint Committees

Joint Economic
Joint Library
Joint Printing
Joint Taxation

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FOR PRICING AND OTHER INFO CONTACT MARYDONNER.ZIIBIEXEC@GMAIL.COM

Congressional Leadership In The 118th Congress

Democratic Leadership

Senate

Senate Democratic Leader and Chair of the

Conference:

Senator Charles Schumer (D-NY)

Majority Whip:

Senator Richard J. Durbin III (D-IL)

Assistant Democratic Leader:

Senator Patty Murray (D-WA)

Chair of the Democratic Policy and

Communications Committee:

Senator Debbie Stabenow (D-MI)

Vice Chair of the Conference:

Senator Elizabeth Warren (D-MA) Vice Chair of the

Conference:

Senator Mark Warner (D-VA)

Vice Chair of the Democratic Policy and

Communications Committee:

Joe Manchin (D-WV)

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 Catherine Cortez-Masto (D-NH)

Chair of Steering Committee:

Senator Amy Klobuchar (D-MN)

Senate Democratic Conference Secretary:

Senator Tammy Baldwin (D-WI)

Senate President Pro Tempore:

Patrick Leahy (D-VT)

House of Representatives

Democratic Leader:

Rep. Hakeem Jeffries (D-NY)

Democratic Whip:

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

Agriculture, Nutrition and Forestry:

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:

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Senator Tom Carper (D-DE)

Finance:

Senator Ron Wyden (D-OR)

Foreign Relations:

Senator Bob Menendez (D-NJ)

Health, Education, Labor, and Pensions:

Senator Bernie 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)

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)

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)

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)

Treasury and Other Key Officials

Secretary of the Treasury:

Janet Yellen

Director, Office of Management and Budget:

Shalanda Young

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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2211 York Road Oak Brook, IL 60523

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NAFOA CONGRATULATES

MIKE LETTIG

ON AN OUTSTANDING CAREER



n 2005, KeyBank started its Native American Financial Services, making them one of the first financial institutions to create dedicated teams serving Indian Country. This visionary move was led by Mike Lettig. Under Lettig's leadership, KeyBank has since collaborated with numerous tribes to strengthen and expand their local economies.

After decades of service to tribal communities, Mike Lettig is preparing for a well-deserved retirement. Lettig has been part of the NAFOA community as a conference speaker, moderator, a member of our Corporate Advisory Committee, and a supporter of the Institute's educational programs. This will be his last NAFOA Conference as KeyBank's National Executive and NAFOA asked him his thoughts on the impact that he has had on Indian Country over his career.

NAFOA: Describe your career path for us. How did you find yourself at KeyBank as a National Executive?

Lettig: I started with a predecessor bank to Key in June of 1976. Over the course of that career, I had an opportunity to work in and run Agribusiness nationally. I worked as a regional executive with responsibilities for commercial bank activities in agriculture, as well as in Alaska, Oregon, and Washington State. I started Native American Financial Services for Key in 2005. As the business grew, my responsibilities became focused on that business as their National Executive.

NAFOA: What message would you like to share with young professionals who may be considering pursuing careers in the corporate world to make a positive difference in the communities they care about?

Lettig: I believe that career, personal values, and community involvement are not mutually exclusive. Fortunately, there are organizations that have similar commitments. Working for and with those organizations add purpose and reward the personal growth of young professionals. Find the right organization that demonstrates their values are aligned with yours.

NAFOA: You were able to persuade leadership at KeyBank to start a Native American Financial Services group. Can you describe why you thought it was important, how you were able to convince them, and how successful it has been since?

Lettig: I believed that the financial community's delivery of services and solutions was mostly tailored to how the industry does business. In other words, the model of industry and service verticals create a service delivery silo. In essence, the industry trains clients how to do business with them. Indian Country's financial service needs are complex, and require access to multiple services that are often in different departments of a bank based financial institution. Services such

as taxable, tax exempt debt issuance, syndications, cash management (for governmental and business purposes), investment management and trust and so on are routinely needed by Tribes.

The idea of establishing a group that represents the Tribes needs and coordinates the understanding and solutions in a comprehensive manner was missing. Over the course of the last 18 years, this business model has proven to be effective for Native America. The results have been billions of dollars raised for Indian Country (both on and off-balance sheet and taxable and tax exempt debt), billions of dollars in deposits that are tailored to the specific needs of each tribe, and billions of dollars in assets under management, again tailored to the specific objective, fund by fund, Tribe by Tribe.

NAFOA: What are some of your proudest or favorite accomplishments over the course of your career?

Lettig: Indian Country is a very safe place to provide financial solutions to and a major accomplishment is getting our organization and other financial institutions to acknowledge that. This helps broaden the financial services access to Native America. Another memorable accomplishment was developing a large unsecured credit facility to the Navajo Nation with Navajo Nation law for dispute resolution and under Navajo Courts and Navajo Arbitration Act.

NAFOA: As someone who has been a longterm supporter of NAFOA, what does NAFOA mean to you?

Lettig: NAFOA is an economic standard bearer for Indian Country. The organization has the economic independence priority for Native America as its major focus. The importance of expanding access to financial solutions and being a respected voice on the legal and legislative issues play an important role in the capital access puzzle that Indian Country faces. NAFOA has this great focus top of mind and it has evolved as a clearing house for major issues impacting Tribes. It is also important to note that NAFOA is led by very skilled Native American women professionals.

NAFOA: What do you plan to do after you retire?

Lettig: Certainly, time with family will be more balanced. In addition, there is so much more that needs to be addressed on the financial services front, so I will likely be engaged at some level, and hopefully make a positive difference.

NAFOA: Any final words that you'd like to share with the NAFOA community?

Lettig: I have been blessed with an amazing experience that hopefully positively contributes to the financial service access for Indian Country. Providing solutions and gaining trust Tribe by Tribe has been extremely rewarding. It has been fun to watch the financial services industry positively evolve, but there is so much more to do.

NAFOA extends our heartfelt appreciation and congratulations to Mike as he moves into the next phase of his life!



NAFOA's Annual Lifetime Achievement Awards

For over a decade, the NAFOA Board of Directors have recognized innovative and influential Native American leaders who have devoted their careers to bringing about positive economic change for both their communities and Indian Country. The NAFOA Lifetime Achievement Award recipients are nominated and selected by the NAFOA Board of Directors. These individuals are viewed as experts in their fields and respected for their years of career and volunteer work that boasts a lifetime dedicated to growing tribal economies.

NAFOA commends **Dr. Henrietta Mann** and **Chairman Mark Macarro** for their years of dedication and commitment to advocating on behalf of their communities and Indian Country by honoring each of them with a NAFOA Lifetime Achievement Award. These distinguished recipients have paved the way for a brighter economic future for Native American people.

NAFOA's Annual Lifetime Achievement Awards (continued)

Lifetime Achievement Award

NAFOA is honored to present **Dr. Henrietta Mann (Cheyenne Name: Ho'e-osta-oo-nah'e = "Prayer Cloth Woman")** of the Cheyenne and Arapaho Tribes with our Lifetime Achievement Award. Throughout her career, she has been a steward for



Native Education. Dr. Mann was Director and Professor of Native American Studies at the University of Montana, Missoula for 28 years, receiving tenure prior to her departure in 2000. She was the founding President of the Cheyenne and Arapaho Tribal College. At Montana State University, Bozeman, she was the first individual to occupy the Endowed Chair in Native American Studies. She is Professor Emerita at MSU and was the Special Assistant to the President until 2016.

In addition to her professorship, she has taught at the University of California, Berkeley, Graduate School of Education at Harvard University, and Haskell Indian Nations University in Lawrence, Kansas. Dr. Mann also served as the Director of the Office of Indian Education Programs/Deputy to the Assistant Secretary for the Bureau of Indian Affairs, and was the National Coordinator of the American Indian Religious Freedom Act Coalition for the Association on American Indian Affairs.

In 1991, Rolling Stone Magazine named Dr. Mann as one of the ten leading professors in the nation. In 2008, she received the Lifetime Achievement Award from the National Indian Education Association. Additionally, the College Board's Native American Student Advocacy Institute (NASAI) presented her with its first Lifetime Achievement Award in 2013, and has since created the *Dr. Henrietta Mann Leadership Award* presented to leaders for their advocacy in improving lives within Native communities.

In 2016, she became one of two Native American scholars ever to be elected to the National Academy of Education. Subsequently in 2018, she was elected to be a member of the American Academy of Arts & Sciences. In 2017, she received a SPIRIT ALIGNED Legacy Award as a carrier of indigenous community values, memory, and wisdom. Most recently, Dr. Mann earned the acclaimed National Humanities Medal. The award was presented by the National Endowment for the Humanities and President Joe Biden during the Arts and Humanities Award Ceremony and dinner at the White House in March 2023.

Dr. Mann holds an Honorary Doctorate in Humane Letters from Smith College in Massachusetts. She continues to serve on boards at the national and international levels, and has served as Elder-in-Residence at Fort Lewis College, Durango, Colorado, and the University of North Carolina, Chapel Hill. In recognition of her years of commitment to her Tribe and Indian Country, we are pleased to honor Dr. Henrietta Mann with our esteemed 2023 Lifetime Achievement Award.

NAFOA's Annual Lifetime Achievement Awards (continued)

Lifetime Achievement Award

NAFOA presents **Chairman Mark Macarro** of the Pechanga
Band of Indians with our Lifetime
Achievement Award. Chairman
Macarro has been the Tribal
Chairman of the Pechanga Band
of Indians since 1995. He was first



elected to the Pechanga Tribal Council in 1992 and is currently serving in his 29th consecutive year as Tribal Chairman. Throughout his tenure, Macarro's vision for Pechanga has been to see the Tribe strengthen its sovereignty, political self-determination, and economic self-sufficiency, while maintaining its distinct cultural identity. Chairman Macarro holds a B.A. in Political Science from the University of California, Santa Barbara.

Chairman Macarro serves on several boards in different capacities. He has served on the board for the Indian Gaming Association as the Pacific Region delegate since 2003. From 2007 to 2015, he served on the Board of Governors for The Harvard Project on American Indian Economic Development. From 2010 to 2015, Chairman Macarro served on the board of the Native American Rights Fund. He has been on the board of the American Gaming Association since 2018. In 2019, he was appointed by University of California President Janet Napolitano to serve on the inaugural Native American Graves Protection and Repatriation Act Native American Advisory Council. Chairman Macarro was appointed in 2020 by Governor Gavin Newsom to the inaugural California Truth and Healing Council. He has served as the 1st Vice President of the National Congress of American Indians since 2021.

In his professional career, Chairman Macarro has been the recipient of several prestigious awards,

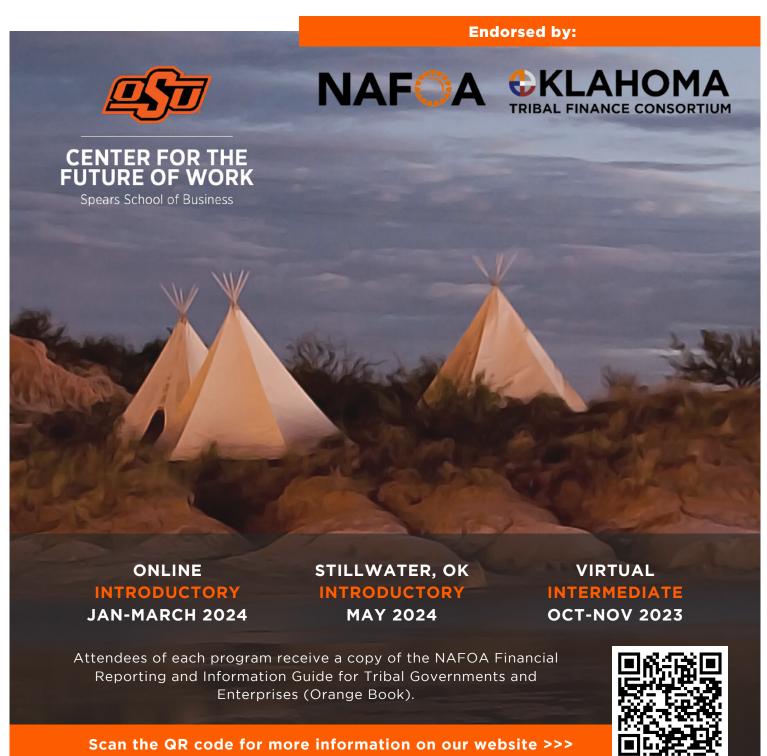
including the 2019 Association of Tribal Archives, Libraries & Museum Guardian of Culture and Lifeways Outstanding Tribal Leader Award; the John Kieffer Sovereignty Award; National Center for American Indian Enterprise Development's Jay Silverheels Award; Indian Country Today's 50 Faces of Indian Country Award; Pathbreaker Award at the 20th Annual Indian Gaming Regulatory Act Symposium; and the Recognition Award from the Riverside County Indian Health Consortium.

As a tribal leader, Chairman Macarro has had many outstanding accomplishments on behalf of his Tribe. Pechanga Indian Reservation's land base doubled during Chairman Macarro's tenure as Tribal Chairman. He has had much success with Federal Legislation, including the Indian Financing Amendments Act, the Pechanga Indian Land Transfer Act 1, and the WIIN Actcontaining the Pechanga Water Rights Settlement Act. Chairman Macarro has also been a part of several sacred sites protections and Indian gaming achievements. He has overseen improvements with Pechanga infrastructure, health, education, and culture, including water systems storage and delivery systems. Under his leadership, the Tribe has developed two full response fire stations; Tribal citizen medical, dental, and vision insurance programs; college university and vocational scholarship program; a fully accredited bilingual on reservation school; creation of a Tribal publishing arm; and various Native language programs and resources. In recognition of his years of commitment to his Tribe and Indian Country, NAFOA is pleased to honor Chairman Mark Macarro with the esteemed 2023 Lifetime Achievement Award.

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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 last meeting on September 7th, 2023 which was their 3rd meeting of this year.

Members



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.



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.



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 Ewiiaapaayp
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 or 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.

Treasury Tribal Advisory Committee (continued)



Rodney Butler

Rodney Butler has been the Chairman of the Mashantucket Pequot Tribal Nation since 2010. As Chairman, Butler's primary focus is to ensure long-term stability for the Tribe's citizens, government, and business

enterprises. Mr. Butler earned his Bachelor's Degree in Finance from the University of CT. Butler was actively involved in multiple resort expansions at Foxwoods, as well as community development initiatives on the Reservation, the establishment of the Mashantucket (Western) Pequot Tribe Endowment Trust, and the legalization of Sports Betting and iGaming in the state of CT. In 2017, Butler was appointed "Tribal Leader of the Year" by the NAFOA. He presently serves as Co-Chairman on the Board of Directors for MMCT LLC and is on the board of Foxwoods El San Juan Casino. He also serves as an Alternate Vice President for the National Congress of American Indians and on the boards for the National Indian Gaming Association, Roger Williams University, and the Mystic Aquarium.



Cora White Horse

Cora White Horse is a current Tribal Council Member for the Oglala Sioux Tribe. She represents the LaCreek District and is the Chairwoman of the Council's Finance Committee. Cora previously served two Council terms as

a representative from the Medicine Root District.
Cora has also worked in the political offices of
Assistant to Tribal President Cecelia Fire Thunder
and Assistant to Tribal Treasurer Crystal Eagle Elk.
Prior to those positions, Cora worked in Oglala Sioux
Tribe Law Enforcement and Bureau of Prisons Juvenile
Programming on the Pine Ridge Reservation at the
Kiyuksa Otipi Reintegration Center.

Cora was raised on the Pine Ridge Indian Reservation. She graduated from Little Wound School, which is located in Kyle in the Medicine Root District on the Reservation. She then attended Haskell Indian Nations University and Oglala Lakota College. She currently resides near Martin, South Dakota in the LaCreek District of the Oglala Sioux Tribe.

NAFOA Future Conferences



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



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To look forward and rise to the challenges ahead requires welcoming change with optimism. It's how Moss Adams uplifts Tribes and gaming operations to go where they want to be next—navigating audits and compliance, improving operations to support members, and more. Discover how our customized advisory solutions can help elevate your performance upward.

MOSSADAMS.COM/TRIBAL

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Past NAFOA Conferences







Past NAFOA Conferences (continued)



Past NAFOA Conferences (continued)

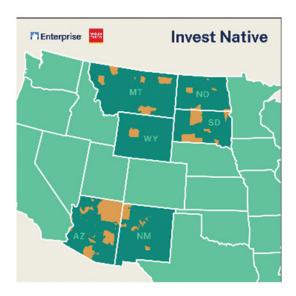


Grantmaking to support a more equitable and prosperous future for Native Americans

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

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





Tim Ross

"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 5-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 Native Listening sessions to refine our philanthropic approach in Indian Country. Gaining an understanding that funding is not all that matters when it comes to building economic resiliency for the community. Wells Fargo learned that support of these Indian communities needs to come at all levels

to create more opportunities for local and regional organizations.

When "Invest Native" was launched in early 2023, the goal was clear – the funding has a specific focus to work with Native-led nonprofits and CDFIs at the center of three priority pillars: to address housing, small business, and financial health. Its impact is focused among Native American communities in Arizona, Montana, New Mexico, North Dakota, South Dakota, and Wyoming—six of the 10 states with some of the highest percentage of Native Americans.

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 singleand 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 to map out 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.

Tribes Protecting Tribes

By Tina Duncan, Director of Business Development

Tribes Protecting Tribes

n 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 reimage and restore the device.

AMERIND: Insurance Products and Services for Indian County

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.

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.

How Tribes and Tribal Organizations Can Utilize the New Markets Tax Credit

By Anita Shah, CPA, Moss Adams and Ben Alderton, JD, Moss Adams

he New Markets Tax Credit (NMTC) can be a powerful financing tool for Tribes and Tribal organizations to fill financing needs and provide more impact in the communities they serve.

NMTCs provide flexible financing based on various qualifying factors. There are opportunities for Tribes and Tribal organizations to use the proceeds of NMTC financing to help finance activities that will directly benefit various Tribal enterprises or endeavors.

Projects located in a qualifying low-income community or that provide a direct benefit to low-income persons can qualify, and NMTC financing can be utilized in a variety of ways, including business or service expansion or relocation, equipment financing, or even working capital.

Explore how Tribal organizations can use the NMTC, as well as key considerations:

NMTC Overview

Passed in 2000 as part of the Community Renewal Tax Relief Act, the NMTC provides a 39% federal tax credit to investors who invest in traditionally underserved, low-income communities. These investments then flow to the low-income community through the NMTC structure.

For additional background on the NMTC, explore our FAQ.



How Can Tribal Organizations Benefit from the New Markets Tax Credit?

While Tribal organizations are sovereign entities that don't have federal tax liability

and can't directly use NMTCs, they can still benefit from the NMTC financing structure.

An NMTC investor, such as a bank, with federal tax liability, receives the credits generated from the structure by making qualified investments in an NMTC-eligible community, business, or enterprise. The invested equity flows through the NMTC structure and ultimately to a qualified low-income community business (QALICB) or project, which is generally a subsidiary or a business segment of the Tribe or Tribal organization.

The QALICB can receive the benefit of the NMTC structure in the form of either equity or low-interest rate loans, with low-interest rate loans being the more common and often preferred vehicle. The QALICB can then use the loan proceeds to complete the project, install equipment, or for working capital.

Ultimately, however, while the lower interest rate can be impactful, it's the ultimate net benefit realized at unwind that's so powerful. This net benefit generally ranges between 15%–20% of project costs.

The net benefit is realized at the end of the NMTC compliance period when the transaction is unwound, and the remaining investor equity is retained by the project. Thus, a \$10 million project might effectively cost the Tribe between \$8 million and \$8.5 million as a result of the NMTC financing structure.

What Types of Tribal Projects Can Benefit from NMTC Financing?

Almost any type of Tribal project can use NMTC financing as long as NMTC proceeds aren't allocated for an impermissible purpose, such as gaming or golf courses. Projects involving cannabis, while not technically listed as a prohibited use, are also not allowed.

NMTC financing is competitive. The more compelling the goals and the more services provided to the low-income community, the more likely it will attract financing.

Also, CDEs and investors place greater emphasis on projects that focus on diversity, equity, and inclusion (DEI) in the community. This focus makes Tribal or Native American-owned projects attractive to many CDEs, as many projects not only benefit Tribal members directly, but do so in a meaningful and culturally relevant way.

Entity Types That Can Receive NMTC Funding Following are some broad categories of entities that can receive NMTC financing in Indian Country:

- Health care facilities
- · Addiction treatment facilities
- · Educational facilities
- · Childcare facilities
- Community centers
- Cultural centers
- Tribally-owned businesses
- Infrastructure improvements
- Broadband improvements

This list is in no way exhaustive. The common thread is that each project type provides meaningful benefits to the low-income communities they serve.

Are There Community Development Entities that Focus on Tribes or Tribal-Owned Organizations?

Every CDE makes representations to the Community Development Financial Institutions (CDFI) Fund

regarding how and where they'll deploy their allocation.

Some CDEs focus only on specific asset types or entities, while others have a broader focus. Importantly, some CDEs specifically focus solely on serving Tribes or Tribal organizations and others focus at least a portion of their allocation on Tribal communities.

Even if a CDE doesn't have a specific Tribal focus, many CDEs support projects benefiting Tribes or Tribal members because of the impact of the project.

Careful consideration of the mission and goals of your project, its locations, and the expected impacts on the community will often reveal several CDEs that might be interested in bringing NMTC allocation to your project.

Can a Tribal-Owned Project Attract NMTC Financing if it Isn't Located in a Qualifying or Severely Distressed Census Tract?

Yes, these projects can still attract NMTC financing. The most common way a not-for-profit organization qualifies for NMTC financing is based on its location in a severely distressed census tract.

A project, however, can qualify and attract NMTC financing by servicing targeted populations that are owned by, employ, or derive income from transactions with persons considered low-income. This is commonly referred to as a targeted populations test.

Qualifying for NMTC financing using the targeted populations test does add an additional layer of complexity to an already complex financing structure and requires additional compliance certifications throughout the compliance period. This added complexity traditionally caused some CDEs to shy away from transactions using the targeted populations test.

There have, however, been discussions within the NMTC industry regarding the need for more CDEs to embrace targeted populations transactions. Given the impact many Tribal projects have in their communities, these projects might make a compelling enough case to attract NMTC financing using the targeted populations test.

Can NMTC Financing Help Tribal Organizations Acquire Working Capital After a Natural Disaster?

Yes. It's possible to look at the operations of a Tribal organization to determine if NMTC financing might be available for working capital.

The same minimum size of NMTC financing is applicable and the NMTC proceeds will need to be used within 12 months of closing, but working capital can be a permissible use of the proceeds.

Using NMTC proceeds for working capital, however, hasn't been a traditional use of NMTC financing, so some CDEs are more hesitant to enter these transactions than others. While these transactions are gaining acceptance, there are pre- and post-closing compliance considerations unique to each transaction.

Would a Tribal-Owned Project in a Distressed Census Tract Have Trouble Attracting NMTC Financing?

NMTC financing isn't an as-of-right set-up. Even compelling projects don't always obtain NMTC financing. Attracting allocation can sometimes come down to being in the right place at the right time.

Sometimes, a project simply isn't ready when a CDE has allocation or, conversely, a CDE that's committed to a project might not receive allocation and therefore be unable to bring allocation to a project.

Obtaining NMTC financing is a competitive process with a limited amount of allocation authority available every year, so it's important to tell your story in a compelling way in hopes of garnering interest from multiple CDEs.

Is it Possible to Use NMTC Financing if the Project Received Federal Grant Funding?

It's possible for a project that received grant funding or other public funds to explore NMTC financing. Any amounts received from the granting authority generally can't be utilized for NMTC financing, but if the grant funding pays for only a portion of the project costs, NMTC financing may be an option to help finance the remaining project costs.

A careful examination of the funding sources and restrictions on those public funds is generally required.

Can NMTC Financing Be Utilized for Projects on Trust Lands?

Yes. Some CDEs will only provide allocation to projects located on trust lands.

As with any transaction involving trust lands, careful structuring and planning are required to ensure compliance with any requirements for transactions on trust lands are met.

Will a Waiver of Sovereign Immunity Be Required?

Each Tribal nation has its own laws regarding the process and requirements for waiving sovereign immunity; however, consistent with other financing structures, investors and CDEs will require a waiver of sovereign immunity to ensure the various documents are enforceable in the jurisdiction governing the transaction.

There have been efforts on the part of some investors and CDEs to agree to the jurisdiction and venue of the Tribal courts, but the ability to do so depends on facts and circumstances.

Will It Be Necessary to Create New Legal Entities to Accomplish the NMTC Financing?

For the NMTC financing structure to be respected for federal income tax purposes, there must be a separation of ownership between the leverage lender and the QALICB or project entity.

There are various ways in which this separation of ownership can be created, and many Tribes have their own laws or regulations for establishing Tribal corporations.

One area, however, that's particularly nuanced for transactions involving Tribal ownership, is that federal tax law doesn't clearly recognize a sufficient separation of ownership between the Tribe and a Tribal corporation. As a result, it's common for a Tribe to set up a separate state-law or not-for-profit legal entity to act as either the leverage lender or QALICB.

Other legal structures may be available, and a careful consideration of a particular Tribe's laws and regulations and the facts of a transaction is required.

How Difficult Are the NMTC's Seven-Year Compliance and Reporting Obligations?

An NMTC project must maintain compliance with all NMTC regulations for the entire seven-year recapture period. Some Tribes are initially hesitant to enter transactions that require compliance for seven years.

While this hesitation is understandable, the requirement exists because the tax credits generated from NMTC financing are subject to recapture during this period. Moreover, the objective of the NMTC program is to drive investments in traditionally underserved communities, and the compliance period serves as a mechanism to ensure these investments remain in the community in which they were deployed.

As a result, most NMTC compliance requirements focus on ensuring this objective is met, and the requirements are typically easily met by the Tribe.

For example, one requirement is the project must remain in the low-income community during the compliance period. Obviously, if a building is built on Tribal land with the intent of providing services to Tribal members, it's unlikely the Tribe is going to move the building and services off the reservation, further from the individuals served. Other compliance requirements are similarly within the control of the Tribe.

Additionally, the Tribe must provide community impact data to the CDEs during the compliance period. This data is utilized to measure the impacts of the NMTC program. This impact data is captured within the community benefits agreement that's negotiated during the closing process. Only data that's pertinent to the project and the NMTC program is required to be captured.

All-in-all, the compliance and reporting obligations, while important, aren't onerous and are far outweighed by the potential benefit of the financing to the community and to the Tribe.

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. Anita can be reached at anita.shah@mossadams.com or (858) 795-1692.

Ben has worked in the tax credit industry since 2012. He primarily advises clients on negotiating and structuring NMTC transactions to help drive investment in low-income communities throughout the United States. Ben can be reached at benjamin.alderton@mossadams.com or (303) 723-7873.

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Navigating Credit Card Abuse and Documentation Issues While Ensuring Federal Grant Compliance

redit cards have revolutionized the way we handle financial transactions, offering convenience and flexibility. However, this convenience comes with its fair share of challenges, including credit card abuse and documentation issues. For governmental entities that rely on federal grants, the repercussions of mishandling credit cards or failing to obtain and retain adequate documentation can be severe, leading to questioned costs on grant expenditures and the threat of being required to repay grant monies.

Understanding Credit Card Abuse

In the case of credit cards, abuse refers to the unethical or unacceptable use of money and can manifest as expenditures that, while they are not fraudulent, they are unnecessary. In a federal grant context, misuse of credit cards can lead to consequences ranging from financial penalties to reputational damage eroding public trust, compromising financial integrity, and diverting resources away from their intended purposes.

Abuse most commonly seen with credit cards includes the following:

- Purchases that bypass the approval process and are therefore unauthorized.
- Personal expenditures ranging from fuel for private vehicle use to gifts for family members.



- Prohibited expenditures, particularly related to alcohol or entertainment expenses.
- Excessive expenses for travel via higher rate flights or hotel stays
- Subscriptions to services that are not related to their work.

Documentation Issues in Credit Card Usage

Documentation is the cornerstone of financial transparency and accountability. However, maintaining accurate and comprehensive documentation for credit card transactions can be challenging, especially in large governmental organizations with numerous transactions occurring daily. Documentation issues can include incomplete records, missing receipts, improperly categorized expenses, and vague descriptions of purchases.

These documentation challenges can arise due to various factors:

Lack of Accountability: Governmental entities often deal with complex and multifaceted projects that involve a multitude of expenses and a significant number of personnel with credit cards. Ensuring every expense is adequately documented can be daunting and holding individuals responsible for missing documentation comes with a multitude of difficulties.

Volume of Transactions: Large organizations handle a high volume of transactions daily. This sheer volume can lead to oversight or mistakes when recording details of each transaction.

Procedural Gaps: Inadequate training or unclear procedures for documenting credit card expenses can contribute to inconsistencies and inaccuracies in record-keeping.

Timeliness: Delays in recording transactions can exacerbate missing or incomplete documentation, making it challenging to obtain or locate the missing information.

Impact on Federal Grant Compliance

Federal grants come with compliance requirements to ensure that funds are used for their intended purposes and are properly accounted for. Failure to comply with these requirements can lead to significant consequences, including the need to repay grant funds, financial penalties, and potential legal action.

Credit card abuse and documentation issues can directly impact federal grant compliance by way of misuse of federal money, inaccurate reporting, audit findings, and reputational damage. Credit card abuse, including unauthorized or personal purchases, diverts funds away from the intended projects funded by federal grants with costs to the grant that are unallowable. Inadequate documentation can result in inaccurate reporting of expenses related to grant-funded activities, but definitely hinders the ability to prove the expenditures were allowable under the grant agreement. Both abuse and inadequate documentation can directly result in audit findings, including questioned costs, leading to reputational damage and further scrutiny and making it challenging to secure future grants.

Mitigating Credit Card Abuse and Documentation Issues

To prevent credit card abuse and mitigate documentation issues, several measures can be taken:

 Clear Policies: Establish comprehensive policies that outline acceptable credit card usage, including clear guidelines on authorized purchases, spending limits, and consequences for abuse.

- Training and Awareness: Provide regular training to employees on proper credit card usage, documentation practices, and the importance of federal grant compliance.
- Automation: Implement automated systems for recording credit card transactions, which can streamline documentation and reduce the risk of errors.
- 4. Receipt Submission: Mandate timely submission of receipts for all credit card expenses, ensuring that transactions are properly documented and categorized.
- Regular Audits: Conduct internal audits to identify and rectify documentation discrepancies and credit card misuse promptly.
- 6. Segregation of Duties: Implement a system of checks and balances, separating roles such as purchasing, approving expenses, and reconciling accounts to prevent fraud and abuse.
- Accountability: Ensure repeat offenders are held accountable from requiring additional training attendance up to and including removing their ability to use tribal credit cards.

Conclusion

Credit card abuse and documentation issues are pressing challenges that tribal entities must tackle head-on. For expenditures related to federal grant programs, the stakes are even higher due to the potential impact on compliance and reputational integrity. By promoting transparency, accountability, and proper documentation practices, tribes can navigate the complexities of credit card usage while maintaining federal grant compliance, ultimately ensuring that funds are used responsibly and effectively, maximizing the impact of programs on the health and welfare of tribal citizens.

LaDonna Sinning, CPA, CFE, is a partner at Arledge, an Oklahoma-based public accounting firm. Arledge is a recognized leader in the accounting industry offering practical solutions in the areas of tax planning, auditing, consulting, and advisory services.

Midyear outlook: What's ahead for Indian Country

By **Jarrod Compton**, BOK Financial, Native American Financial Services & **Steve Wyett**, BOK Financial Chief Investment Strategist

surprises, to say the least. At the start of this year, we couldn't have predicted that the health of the financial system would be right up there as a topic of conversation with persistent inflation, further interest rate hikes and the potential for a recession. Now, with much of the year behind us, a recession still has not come, but we're not out of dark yet, as these other financial issues remain.

o far, 2023 has been full of

The health of the banking industry is a topic we get asked about often by tribal members, businesses and municipalities. Essentially, the core of the problem in the financial industry is the speed and magnitude at which the Fed has raised short-term interest rates in response to inflation. Last year, the markets were anticipating two to three rates hikes; instead they got 500 basis points in increases in just 14 months—and some leveraged institutions weren't prepared for it. In addition, the pandemic and increased adoption of hybrid work has created uncertainty around commercial real estate valuations, putting further pressure on banks. We really want to emphasize that these issues are impacting just a few specific banks and are not reflective of any systemic issue impacting the entire industry.

In addition, conversations about inflation and a possible recession are tightly woven, even as recession seems less likely now than it did at the start of the year. In the summer of 2022, we saw a 9% jump in inflation, as measured by the year-over-year headline Consumer



Price Index (CPI). Year-over-year inflation is now a far cry from where we were then but still well above where the Federal Reserve wants us to be.

Furthermore, although there are signs that inflation is slowing, many of our clients aren't seeing it as they manage their businesses and support families. So, how do we reconcile the inflation data saying one thing but people experiencing something quite different? First, we need to recognize that slowing inflation does not mean falling prices, but rather prices continuing to go up, just more slowly. This highlights why the Fed is so concerned about longer-term inflation expectations. Within our economy, we always have some prices falling while others are rising, but the broad nature of price increases since last year was the highest in decades. Longer term, inflation is bad for our economy, and we need to see it continue to slow.

For example, when it comes to tribal government and municipalities, higher construction costs and rising interest rates are impacting projects in a few ways. New construction is slowing down as tribes are electing to postpone nonessential projects. We're hearing from some clients that when rates began to climb they immediately put projects on hold to wait for inflation to subside—and many of these projects are now facing even higher price tags as construction costs continue to rise.

Since construction costs are not expected to decline anytime soon, tribes working on essential service

projects will have to forge ahead, whether price and conditions are prime or not. Consequently, tribal leaders are looking for other efficiencies, self-funding where they can and looking for alternative project funding sources (like leftover CARES Act money). Other projects, that are economic-driven rather than essential, will likely be put on hold or scaled down.

A common misconception when looking ahead is that, as soon as inflation comes down, the Fed can start lowering rates again. That is not the case. Keep in mind that this Fed is trying to avoid a stop-and-go approach to squashing inflation, as the U.S. experienced the downsides of this approach in the early 80s. The lesson learned was to not back off on policy rates too soon lest we risk inflation coming back even stronger. Moreover, even if the Fed stops raising rates, the effects of previous rate hikes will continue to permeate through the economy. As a result, the US economy will slow—and purposely so, in order to bring down inflation.

One concern about a slowing economy is that we could slip into a recession. Trends like the persistent inversion of the yield curve, tighter access to credit and Fed's aggressive rate-hiking cycle signal that recession fears are not unwarranted, even as the US economy has remained surprisingly resilient. It's important to remember that

consumer spending makes up roughly two-thirds of the US economy and that spending has remained strong thanks to the robust labor market and the surplus of savings consumers built up during COVID. However, inflation is taking a toll on the consumer, tribal members included, and more recent credit card data shows that the buffer of excess savings is fading.

As demand slows, a few industries are laying off employees to protect margins due to higher costs from inflation and higher interest rates. Tribal gaming has historically shown resilience through economic downturns and consistently outperforms other industries, but even those operators know they're not entirely immune. We keep a close eye on new unemployment claims because a spike in unemployment claims indicates a recession is upon us. We haven't seen that yet, but a rise in unemployment is likely as the economy continues to slow.

Jarrod Compton, director of BOK Financial's Native American Financial Services division, is an industry veteran with more than 15-years of experience.

Steve Wyett, who currently serves as Chief Investment Strategist for BOK Financial, began his financial career more than 40 years ago and has held a variety of positions since that time.

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Balancing higher interest rates, impacts on capital costs and liquidity returns

he high interest rate environment is top-of-mind for many Tribes. With higher costs to secure capital, borrowers are seeking cost-effective solutions to raise funds for governmental infrastructure and business enterprise projects.

The change in interest rates intensifies pre-existing challenges Native American communities have historically faced in accessing capital. Increased interest rates have made it critical that Tribes work with a trusted banking advisor to evaluate the environment and pinpoint the right strategy.

KeyBanc Capital Markets experts in financial solutions for Native American Tribes, Mike Fesl and Ben Rechkemmer suggest points to consider in an elevated interest rate environment for capital raise and investment return issues.

Capital raise and liquidity return considerations

The high interest rate environment is impacting both borrowers and depositors. Fesl, Director of Key's Native American Financial Services, says that the rate environment is part of every conversation he is having with clients.

Borrowers want to understand how the rate environment is impacting capital costs and their borrowing capacity, while depositors are looking at the increased rate of return and exploring ways to leverage liquidity to their benefit. Key is working with both to



either mitigate the impact of rates on capital raises or maximize the benefits of higher returns on liquidity. Returns

on deposits and short-term liquidity have increased significantly and therefore those balances, and the types of financial instruments Tribes are using to manage cash should be reviewed strategically.

"We have taken a proactive approach by increasing the deposit rates for existing clients as the Fed increases their target rate, and we are actively pursuing new clients with meaningful deposit rates as well," says Fesl. "We are very competitive, and we are hearing positive feedback from existing clients and prospects that we are winning price comparisons."

Capital raise alternatives

Borrowers are beginning to see the negative impact of higher interest rates and how the cost of capital can reduce borrowing capacity to the point of impacting project scope or viability.

For example, several major casino resort projects are on hold due to the higher cost of development, including the cost of capital as well as supply chain issues. Such delays have prompted Tribes to evaluate alternative options.

One potential way to work around these obstacles is for borrowers to take a phased financing approach to new development, which means funding one portion of the project at a time. "We are seeing borrowers taking a phased approach instead of pursuing an expansion project all at once," says Fesl. "That allows them to be more strategic about the level of debt to incur and add flexibility to the borrowing costs and repayment method."

Fesl says the strategy is effective for the right projects because borrowers can take advantage of available financing options to jump-start a project, and then leverage the completed portions of the project to secure capital for the next phase. Ultimately, this is an opportunity to push projects through that would otherwise be stalled due to higher costs or limited access to capital.

Yet the phased approach can have total cost and full project development implications to consider according to Rechkemmer, Managing Director at KeyBanc Capital Markets. "It is a balancing act of deciding if phasing a project is a good alternative," he says.

The best way to secure capital for a project is to work with an experienced banking advisor to execute the optimal phased strategy and determine how to best break up the project. "Borrowers should understand that the wrong strategy could lead to high project costs and higher long-term borrowing costs."

Tapping the benefits of an inverted yield curve

Borrowers have another option in the current market. The yield curve is currently inverted, meaning that short-term borrowing rates are higher than long-term borrowing rates.

This is an unusual phenomenon that won't last forever, but it allows borrowers to lock in long-term financing at a lower rate than short-term financing—particularly borrowers who can take advantage of tax-exempt financing and place long-term bond instruments.

"It is a benefit that some of our clients are seeing today, and we are encouraging them to take advantage where they can," says Fesl. Leveraging an inverted yield curve by looking to the bond market for financing solutions can be an excellent alternative in a banking market with extremely volatile rates.

With an inverted yield curve, borrowers have an opportunity to look to the bond or institutional markets to access capital at favorable rates and tenors, where there might be more demand. "That is an important underlying theme now," says Rechkemmer.

Could 105(I) Leases provide a new source of capital?-

The 105(l) Lease program is an agreement between the Bureau of Indian Affairs, the Bureau of Indian Education or Indian Health Services, and a Tribe to reimburse facility costs when the facility is used for programs, activities, or services included in the Indian Self-Determination and Education Assistance Act. This includes the financing costs of the building, depreciation costs, utilities, and capital expenditures for upkeep. This is a major advantage for Tribes, who would otherwise carry most of these costs on their own.

Currently, Congress has appropriated 'such sums as necessary to fully fund all leases". While funding for the program is presently 'discretionary', the conversation to whether this will become a mandatory federal obligation is currently happening in Congress.

Should that happen, Tribes would have even greater leveraging power to secure debt for multiple projects and not be concerned about appropriation risk.-

"There would be little to no restrictions of what the Tribe could do with the debt and repayment is secured by revenues coming from the Federal government," explains Fesl.

Key is actively encouraging clients to enter into 105(1) leases to receive facility cost compensation that they are owed and develop the ability to leverage those funds.

Selecting the right alternatives in a high interest rate environment

The current high interest rate environment has created challenges for many borrowers. Tribes are particularly exposed—but there are solutions. By understanding the market dynamics, Tribes can secure the capital they need to pursue expansion projects and governmental infrastructure for their communities.

Key is one of the nation's leading capital originators with proven experience working with Tribes.

For help getting your deals to the finish line, contact:

Ben Rechkemmer, Managing Director, Head of Native American Financial Services, at 425-709-4509 or ben.rechkemmer@key.com Visit: key.com/nativeamerican



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Strategic (Growth Fund) Business Acquisitions by Tribes

By **Mr. Gundersen** (Navajo) is the President of Tallsalt Advisors, a financial firm exclusively serving Native nations and their 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 c economic growth through an acquisition, sta

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 or 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 twelvemonth 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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Cybersecurity for Tribes and Tribal Gaming

By Bobby Simpson, CIO Finley & Cook, PLLC

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



cybercriminals. 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 you 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 healthcare, police and fire, or industrial controls, these can be costeffective 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 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.

405-395-5191 bsimpson@finley-cook.com

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