

*the* **National Center**

*for* **American Indian Enterprise Development**



**TESTIMONY**

**OF THE**

**NATIONAL CENTER FOR AMERICAN INDIAN ENTERPRISE DEVELOPMENT**

**FOR THE**

**SUBCOMMITTEE ON RURAL DEVELOPMENT, ENTREPRENEURSHIP & TRADE**

**OF THE**

**HOUSE COMMITTEE ON SMALL BUSINESS**

**HEARING**

**ON THE**

**“NATIVE AMERICAN BUSINESS DEVELOPMENT ENHANCEMENT ACT”**

**ON**

**APRIL 2, 2009**

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Chairman Shuler and Ranking Member Luetkemeyer, I am Margo Gray Proctor of Tulsa, Oklahoma, a tribal member of the Osage Nation and President of the Horizon Companies. My small business provides engineering and other services to federal, state, tribal and local government and private sector customers. Recently I was elected Chair of the Board of Directors Chair of the National Center for American Indian Enterprise Development, commonly referred to as the National Center. I am very pleased that the Subcommittee asked the National Center to testify on Small Business Administration (“SBA”) entrepreneurial development programs, specifically the new “Native American Business Development Enhancement Act of 2009” now before the Subcommittee.

The National Center commends the House Small Business Committee’s leadership for moving quickly to reauthorize and improve SBA’s entrepreneurial development and small business contracting programs. We applaud Chairwoman Velazquez’s persistence in holding SBA and the federal contracting agencies accountable, through many Scorecard reports and otherwise, not only to meet the government-wide small business contracting goals, but also to meet and increase the individual agencies’ contracting goals.

To begin, I would like to provide the Subcommittee some historical perspective on Native American business development as context for the National Center’s views on and proposed amendments to the new Native American Business Development Enhancement Act of 2009.

**Early Background of the National Center**

This year, the National Center or NCAIED is celebrating its 40<sup>th</sup> anniversary as the longest serving Native business development assistance provider in the United States. Our mission is to *develop the American Indian private sector* as a means to help our Native communities become self-sufficient. Our Board of Directors consists of tribal business and political leaders from among the 550 Indian tribes that govern their own tribal communities across the United States. National Center leaders have always played pivotal roles in spurring small business startups in the commercial and government marketplaces, and in working to break down barriers impeding Native companies’ growth and success.

Formed by Indian business and community leaders in 1969 as the non-profit Urban Indian Development Association, the organization drew support from local Indian businesses and larger private sector companies in Southern California, such as ARCO, Southern California Edison, Southern California Gas, Bank of America, Wells Fargo, Rockwell, Hughes and McDonald Douglas. Its first federal support came from the Department of Commerce’s Economic

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Development Agency (EDA) Indian Desk, similar to the model of other EDA-funded minority business development centers. An early Board Chairman, David Lester, received a Presidential appointment to the National Advisory Council for Minority Business Development, chaired by the Secretary of Commerce. The Council developed a blueprint for a national program promoting minority business ownership and presented its report to the President in 1971 recommending establishment of a new agency within Commerce dedicated to this purpose. Formed as the Office of Minority Business Enterprise, this agency received funding for its operations and made initial grants to the various minority business development organizations already in operation, including the National Center's precursor organization.

Since then, the National Center has evolved from one office with an urban Indian focus into a national organization linked with non-profit business assistance centers nationwide that support the National Center's mission. The Commerce Department's Minority Business Development Agency (MBDA) became an early partner, supporting an increasing number of centers dedicated to minority and Native business development. Of about 34 MBDA-funded centers nationwide, currently 6 Native American Business Enterprise Centers (NABECs) are in operation, of which 3 are managed by the National Center. These various centers furnish technical assistance and business development and management consulting services primarily to small and growing businesses owned by entrepreneurs who are Native American, Alaska Native, and Native Hawaiian, as well as to Indian tribes, Alaska regional and village corporations, Native Hawaiian organizations, and the enterprises owned by these Native organizations.

The National Center's NABECs are staffed primarily by Native American business and procurement consultants with experience in dealing with business challenges unique to Indian Country. On any given day, our business consultants engage in counseling sessions that address questions like: How do you balance tribal sovereign immunity with business interests to protect investments? How can you finance business start-ups and expansions when tribal trust lands and restricted allotments are inalienable and therefore cannot be used as collateral for business loans or lines of credit? How do you attract investments in manufacturing and other capitol intensive ventures to remote reservations that lack physical and technology infrastructure essential to support business development?

The National Center made its mark by designing its services and training its staff to devote extra time and attention to help individual Native entrepreneurs and Indian tribes learn how to conduct business feasibility studies, develop business plans, establish banking relationships and lines of credit, begin marketing, expand operations, and even enter the challenging federal procurement market. By the late 1980s, the National Center operated 5 offices in the West providing business counseling services and helping their clients qualify for procurement opportunities with local, state and federal government agencies.

### **Native Business and Procurement Technical Assistance**

When the Senate Indian Affairs Committee held oversight hearings on Indian business development in the late 1980s, the National Center's President was among the Indian business who urged expansion of procurement opportunities for contracting companies owned by individual Native entrepreneurs or by Indian tribes and Alaska Native regional and village corporations. The National Center testified that the growth of these Native-owned companies

lagged far behind the rate of growth for other groups, with only 14,843 Native-owned businesses generating gross receipts of just \$646.7 million. *See* Oversight Hearing on “Barriers to Indian Participation in Government Procurement Contracting,” Senate Select Committee on Indian Affairs, 100th Cong. 2d Sess. 80 (1988). These numbers represented a mere 1.8% of the total number of small businesses, and with only 1.4% in gross receipts of all minority-owned businesses, combined. *Id.* Comparative figures showed: 248,141 Hispanic-owned companies with gross receipts of nearly \$15 billion; 339,239 African American-owned firms with gross receipts of \$12.4 billion; and 240,799 firms owned by Asian American and other minorities with gross receipts of nearly \$17.3 billion. *Id.* To reach parity with these other groups on a per capita basis, the National Center estimated that a 4,000% increase in Native business ownership would be needed. *Id.*

The low level of federal (particularly defense) contract awards to Native-owned firms greatly concerned then Committee Chairman Daniel K. Inouye. He emphasized that “directing [the] purchasing power [of the U.S. Government] to accomplish social goals such as assisting disadvantaged members of society is well established” and acknowledged that “unfortunately, ... this public policy goal has not been achieved with respect to the participation of businesses owned by [N]ative Americans.” *Id.* at 2.<sup>1</sup> In keeping with federal Indian policies, he acknowledged that it is Native groups’ “common trust relationship with the United States” that “allow[s] the Congress to legislate unique benefits and treatment for the Native Americans.” *Id.*

As a result of this hearing, as well as Small Business Committee hearings, Congress passed several measures important to Indian Country. First, it added to the Defense Logistics Agency’s regional and state procurement assistance centers a new category of American Indian Procurement Technical Assistance Centers (AIPTACs) to target assistance to Indian Country. Congress also amended the SBA’s 8(a) program eligibility requirements to enable companies owned by a tribe or an Alaska Native regional or village corporation to apply for formal certification and receive business development assistance and contract support to enable them to generate revenues to return to their Native communities.

Over the years, the number of AIPTACs with large service areas has grown to 6 nationwide, assisting Native-owned companies in learning how to navigate the complex federal procurement marketplace. The National Center’s AIPTAC operates in Mesa, AZ and Polson, MT serving areas between them. Other AIPTACs have operations in El Segundo, CA serving the West and some of the Southwest; in Seattle, WA assisting the Pacific Northwest; Denver, CO, serving states south of the Plains area; and Marietta, GA and Reston, VA serving parts of the Midwest and the entire East Coast. AIPTAC staff help Native companies become proficient in using electronic registrations and Electronic Commerce/Electronic Data Interchanges, understanding applicable contracting agency’s requirements, applying for 8(a) and other certifications,

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<sup>1</sup> The public policy referenced in Chairman Inouye’s 1988 statement derives from the U.S. Constitution’s grant to Congress of the power “to regulate Commerce . . . with the Indian Tribes.” Article I, § 8, ¶ 3. This Constitutional provision, and its interpretation in subsequent landmark Supreme Court decisions, gave rise to the federal government’s special political relationship with and trust responsibilities to the Tribes. *See Cherokee Nation v. Georgia*, 30 U.S. 1 (1831); *Worcester v. Georgia*, 31 U.S. 515 (1832). Thus Congressional enactments regarding businesses owned by Tribes and ANCs are based on this political relationship and trust obligation, not on a racial classification designed to remedy past racial discrimination.

marketing their capabilities, identifying contracting opportunities, preparing proposals, and winning contracts.

### **Native American Business Development Today**

The National Center has grown to fill the urgent need for business development and procurement technical assistance tailored to the needs of those in Indian Country. After the Clinton Administration left office, support diminished for Native business development centers. The Bush Administration defunded the Tribal Business Information Centers opened during the Clinton years, and flat lined the MBDA's budget. The National Center has worked hard to meet the ever-increasing demand for Native development assistance, while other providers, such as MBDA's Minority Business Enterprise Centers, and most of SBA's Small Business Development Centers (SBDCs) and most of the PTACs have serviced other constituencies.

In addition to the daily one-on-one services provided by our various offices, the National Center offers its Native-owned clientele introductions to valuable teaming partners, whether they are large, small, Native-owned, minority or non-minority companies. From our early years, we have continued to attract an extraordinary Resource Council of Fortune 500 and other major corporations, both in the defense and non-defense sectors, dedicated to working with the National Center and our Native business clients. Our Resource Council members play integral roles in our operations, several providing the required private dollar match for the federal cooperative agreements that our centers receive to be able to offer no-cost services to our clients. Nearly all Council members provide subcontracting or other types of partnering opportunities to smaller National Center clients.

Other major attractions offered by the National Center are its various business and procurement training and networking events throughout the year. These events promote Indian enterprises to the public and private sectors, and help us raise over 50 percent of the funds we need to be able to continue offering no-cost Native business assistance because federal funding for NABECs and AIPTACs has not increased in recent years. The National Center's flagship event is the phenomenally successful Reservation Economic Summit & American Indian Business Trade Fair ("RES" series) that we have hosted for the last 23 years. At our RES 2009 conference, over 2,500 individuals and 320 exhibitors attended, including Tribes, Alaska Native corporations, federal and other government procurement officials, and corporate and Native business representatives.

In sum, the National Center estimates that its centers have assisted about 80% of the Tribes in the lower 48 states and more than 25,000 Native enterprises, and have trained over 10,000 tribal members. Furthermore, due to its centers' bid matching and other business assistance and networking opportunities produced at the RES and similar conferences, National Center clients have received over \$2.5 billion in contract awards and financings -- translating to an estimated 50,000 jobs -- over the last 4 years alone.

The results of all these efforts demonstrate real progress. The U.S. Census Bureau reported in 1997 that its data (though incomplete) showed 197,300 Native-owned businesses in the United States, up 84% from 1992, employing 298,700 people and generating \$34.3 billion in revenues. See 1997 Economic Census: *Survey of Minority Owned Business Enterprises*: Company

Statistics Series (2001). By 2002, Census estimates were 206,125 Native-owned firms, up 4% from the 1997, but total revenues down 23% to \$26.3 billion. *See* 2002 Survey of Business Owners, U.S. Census Bureau. We would prefer to report more current figures, but unfortunately the 2002 survey presents the most recent data available.

### **Continuing Barriers to Small and Minority Business and Contracting Growth**

This Committee recognizes, and many witnesses have noted, that major barriers continue to hamper small and minority businesses' growth and their access to federal prime contract and subcontract awards. With federal contract award dollars doubling over the last five years, small businesses' percentage share of that market should have risen as well, especially if federal contracting agencies were meeting their small business contracting goals, as they claimed. Instead, however, small and minority contractors' shares of the pie have declined significantly. There is general agreement that the following problems have contributed to this decline:

- Bundling/consolidating contracts into sizes beyond most small contractors' capabilities;
- Huge growth in emergency/overseas contracts not subject to small business contracting requirements or goals;
- Barriers to growth, especially the existing SBA limitations on individual owners' net worth, that prematurely graduate entrepreneurs from SBA's 8(a) and SDB programs before they can build their companies into stronger competitors able to pursue and perform larger contracts;
- Lax compliance with, and limited or non-existent enforcement of, 1) subcontracting plan requirements, 2) government-wide and agency small and minority business contracting goals, 3) companies' size and proper coding of contract awards as made to companies that qualify as small and minority owned; and
- Downsizing of the federal procurement workforce, compounding the above problems, as overworked contracting personnel have had to deal with higher volumes of contracting actions, pressures to meet deadlines and small business goals, and little or no time to monitor compliance with existing rules designed to 1) prevent or reduce contract bundling and consolidation, 2) enforce subcontracting plan requirements, and 3) enforce limits on subcontracting, among other key areas requiring additional oversight.

The above problems could be compounded by pressures to meet the noble, but daunting, requirements imposed by the new Obama Administration's initiatives to expedite federal actions to disseminate economic stimulus funds provided in the American Recovery and Reinvestment Act (ARRA) to "shovel ready" and other projects across the country. Coupled with these contracting actions are heightened reporting and oversight responsibilities of federal procurement and other officials to ensure transparent and effective utilization of these ARRA funds.

The House Small Business Committee already has taken many commendable steps to try to tackle the problems listed above. The Scorecard reports served as needed "wake up" calls to SBA and the federal contracting agencies, and SBA has worked harder to clean up its databases,

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review millions of contract actions, identify miscoded contracts, and step up oversight activities. The Committee also has diligently moved bills through the House of Representatives to improve and reauthorize the SBA's entrepreneurial development and contracting programs.

To do its part to advance these initiatives, several years ago the National Center launched a series of private sector programs at various Native business development and procurement technical assistance conferences hosted or co-hosted by its centers around the country. We formed a more formal collaboration with the National Congress of American Indians (NCAI), and with the Native American Contractors Association (NACA) through a Memorandum of Understanding to work together to expand partnering and contracting opportunities among small and minority businesses. Our three organizations developed a common agenda to advance Native business and economic development initiatives, increase federal contracting and partnering opportunities for all types of small and small disadvantaged businesses, and encourage the federal agencies to increase their individual agency small business contracting goals, and meet and exceed the government-wide contracting goals.

At its most recent RES 2009 conference, the National Center presented two days of business learning sessions focusing on "Going Global, Thinking Green, Generating Growth" through stimulus opportunities in the ARRA, a day-long procurement pavilion featuring hundreds of bid-matching meetings, and a day-long Trade Fair. Particularly pertinent to this hearing was our General Session entitled "Elevating Native American Business Development" within the Department of Commerce and the SBA, kicked off by a presentation by SBA's new Chief of Staff, Ana Ma. Among the recommendations made by several national Native organizations during that General Session were that the Congress should 1) authorize and adequately fund the SBA's Office of Native American Affairs, and 2) provide increased funding for centers devoted to Native entrepreneurial development. Armed with these recommendations, we are able to present the views of the National Center and the other organizations that made presentations on these subjects just a few weeks ago at our 23<sup>rd</sup> Annual RES conference.

### **Recommendations**

We believe that, in reauthorizing SBA programs, Congress should include improvements designed to reverse the downward trend in small disadvantaged business contracting and funding for Native and other minority business assistance providers. We present below the positions that have been agreed to by the NCAIED, NACA and NCAI and others in the minority contracting community. These recommendations are designed to advance our interests, and those of many of your constituents, in receiving higher levels of federal contract and cooperative agreement support to achieve our business objectives.

The National Center offers the following specific recommendations for the Subcommittee's consideration:

#### 1. Authorize and Adequately Fund SBA's Office of Native American Affairs:

The National Center has long urged that Congress formally authorize the SBA Office of Native American Affairs, and we are delighted that the new House proposal would authorize this Office and install an Associate Administrator. We are pleased that the bill proposes to authorize \$2

million for each of FY 2010 and 2011 for this Office's operations. Senate-passed bills also have authorized this Office, and the National Center and NCAI are on record in support of Senator Tim Johnson's bill ordered reported in the 110th Congress, S. 2920, to authorize this Office and new Native American Business Centers (see NCAI Resolution No. PHX-08-007, attached).

This important Office of Native American Affairs should continue its outreach and oversee the new grant program proposed in the bill. We also think this Office should coordinate Native American participation in SBA's 8(a) program generally, and specifically in the SBA's ongoing 8(a) Reform Agenda, to improve the accountability, transparency, efficiency and success of the 8(a) program as it applies to Alaska Native and tribal enterprises, and their joint venture and other partnering arrangements. The Office also should collaborate with other SBA divisions to improve the access of tribes, Alaska Native corporations and other Native entrepreneurs to procurement assistance, small business loans, innovative research support, and other SBA programs.

2. Increase Grant Support for Native Business Assistance Centers:

The National Center and other national Native organizations support substantial funding increases for existing programs that have proven track records of effectively targeting business management, financial assistance and procurement technical assistance to tribes, Alaska Native corporations, enterprises owned by them, and Native entrepreneurs. Therefore, we applaud the recent decision of new bill's sponsors to increase the authorization to \$15 million for FY 2010 and \$17 million for FY 2011 for grants of up to \$300,000 each to entities designated under a Tribal Business Information Center program to provide Native business training and entrepreneurial development assistance.

The new proposal suggests a more flexible approach that would allow the new Associate Administrator of Native American Affairs to designate certain entities as grant recipients. The National Center supports this provision, as long as existing NABECs, AIPTACs, and NCDFIs qualify for designation. Furthermore, if grant funding is made available before the SBA finalizes new regulations to designate future grant recipients, the Associate Administrator should be given the flexibility to distribute those grant funds pro rata to existing Native business and procurement assistance centers.

As noted, we earlier endorsed the collaborative approach to small business assistance contained in Senator Johnson's most recent bill, S. 2920, so that NABECs, AIPTACs, Native American Community Development Financial Institutions (NCDFIs), tribal colleges and Small Business Development Centers (SBDCs) are encouraged to work together to develop ways to expand their services, without duplication of efforts and costs. In our view, more partnering between the SBDCs and the NABECs and AIPTACs would cross fertilize their respective capabilities and trainings. As the National Center would not be eligible to apply for any funding under the SBDC proposal, we have suggested in the past that SBDC should partner with a NABEC or AIPTAC in applying for any additional grant designed to target assistance directly to tribes and Native entrepreneurs. Certainly we would want to see such partnering required if funds were appropriated for such additional grants to SBDCs, but no funds were appropriated for the grant program that would be authorized by Section 2.

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Section 3 of the new bill would authorize \$7 million in each of FY 2010 and 2011 for additional grants for which only existing SBDCs would be eligible if they operate in states with a Native American population (defined as “Indian tribe members, Native Alaskans and Native Hawaiians) of at least 1%. This section is identical to provisions of SBDC bills that previously passed the House, but stalled because the Senate acted on S. 2920 or its earlier iterations. Under Section 3, any existing SBDC in the 15 states with the requisite Native population would be eligible for an additional grant of up to \$300,000, with no match required, and would have to consult with tribal organizations on how best to provide assistance to Native Americans to develop and enhance small business startups and expansions, presumably on Indian lands (although the bill language is not clear on this point).

We fully recognize that the SBDC program has substantial Congressional support, given its authorization level of \$135 million and the full Committee’s budget recommendation to the House Budget Committee to increase SBDC funding to this authorized level. The SBDC program clearly has benefited from this support, having already received an increase from the FY 2008 enacted level of \$97.1 million to \$120 million for FY 2009 (with \$10 million provided for SBDC grants in the first Continuing Resolution for FY 2009, and another \$110 million in FY 2009 Omnibus Appropriations). By comparison, there have been no funding increases for the MBDA’s minority and Native American business centers. The MBDA has had to operate within a budget of about \$29 million for the last several years, with less than \$11 million available for its minority centers and less than \$1.5 million for its NABECs. The DLA’s budget for PTACs and AIPTACs has not increased much, certainly not to the extent of the increases for SBDCs. This imbalance in federal entrepreneurial funding has necessitated our outspokenness, knowing that augmented federal support for the NABECs and AIPTACs would enable them to provide so much more assistance to tribes and Native entrepreneurs as they struggle to weather the economic downturn.

We appreciate the balance that the new proposal attempts to strike between these two new grant programs, and we certainly support more entrepreneurial assistance to Indian Country. Therefore, we offer the following suggestion as an approach to consider to focus more SBA and SBDC resources on effective delivery of this assistance: an amendment to the new bill to make the additional \$7 million authorized in Section 3 available to SBDC grantees that partner with any of the Native American centers designated by the Associate Administrator under Section 2(b)(2) of the bill. With this approach, the new bill would build on the proven track records of Native American business assistance providers that have already been dedicating themselves to analyzing and navigating the complex, time-consuming business issues unique to Indian Country --- issues that, frankly, have discouraged many non-Native assistance providers (e.g., most SBDCs, PTACs, and lenders) from taking the time necessary to learn and deal effectively with the laws and customs of Tribes, Alaska regional and village corporations, and other Native entrepreneurs and Native communities across the country.

Below is the language, underscored, that could be inserted in Section 3(a) of the new bill to add in new subparagraph (A) of new paragraph (8) at the end of Section 21(a) of the Small Business Act (15 U.S.C. 648(a)):

“(8) IN GENERAL. – Any applicant in an eligible State that is funded by the Administration as a Small Business Development Center may apply in partnership with an entity designated by the Associate Administrator pursuant to

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section 44(b)(2)[as added by Section 2 of the proposed bill] for an additional grant used solely to provide services described in subsection (c)(3) to assist with outreach, development, and enhancement on Indian lands of small business startups and expansions owned by Indian tribe members, Alaska Natives and Native Hawaiians.”

In closing, I want to thank the Subcommittee for inviting the views of National Center as the longest serving small business assistance provider with the broadest reach in Indian Country. We applaud your leadership and the full Committee for your tireless efforts on behalf of the small business community. We look forward to working with you and your staff on this important Native American entrepreneurial development proposal as it proceeds through the legislative process.

Attachment: NCAI Resolution