

International Markets & Tribal Enterprises

A Guide to Entering the International Market



National
Congress of
American
Indians



2012

A Suquamish Seafoods worker prepares Geoducks for export

Is Your Tribal Business Ready To Export?

This guide lays down some of the basics for tribal businesses that are looking to enter the international market by beginning to export their product. The questionnaire below should give you some idea as to whether you are ready to export:

- Do you have a product that has successfully sold in the U.S. market?
- Are you open to the idea of exporting and willing to conduct business in new ways?
- Can your staff handle the extra demands associated with exporting?
- Can you obtain enough capital or lines of credit to produce the product or deliver the service?
- Do you have the resources to do market research?
- Do climate or geographic factors affect the use of your product or service?
- Are modifications required to make your product appeal to foreign customers?
- Can your product easily be transported?
- Are you able to ensure the successful delivery of the product abroad?
- Can you serve both your existing U.S. customers and new foreign clients?

If you answered “yes” or “maybe” to the majority of these questions then this guide is for you. Continue reading to learn more about the basics of exporting and to get a better understanding of what is required of a business as it seeks to enter the international market.

This guide was produced by the National Congress of American Indians (NCAI) to assist tribal businesses as they look to expand their operations into the international market. It is not intended to be construed as legal advice; and is intended for use for non-legal informative purposes only. Tribal businesses are advised to seek legal counsel before exporting internationally.

Introduction

There has been an increase in the availability of financial and non-financial assistance for both minority businesses and small to mid-size enterprises (SMEs) looking to grow internationally. The Small Business Administration (SBA) notes that small business exporters are currently selling billions of dollars of goods and services overseas every year. Their statistics also show that 70 percent of all exporters have fewer than 20 employees. Moreover, the Minority Business Development Agency (MBDA) states that minority owned firms are four times more likely to export internationally in comparison to non-minority owned firms, regardless of size. This makes it an opportune time for tribal businesses¹ to expand into new markets.

There is also a growing need for businesses to expand their operations into new markets. President Obama's National Export Initiative (NEI), announced in his 2010 State of the Union address, established his goal of doubling United States exports by the end of 2014. It was largely a response to the fact that 95 percent of the world's consumers live outside of the U.S., as well as addressing the IMF's prediction that 87 percent of the world's economic growth in the next five years will occur outside of the United States. Hence it is clear that the role of exports will prove pivotal to the survival of many companies.

However, the process of exporting goods and services can be complicated, particularly as there are many government departments and agencies involved in trade regulation. While the merits of international trade are undeniable, a business needs to ensure that it is in the right position to expand.

Tribal companies that are interested in exporting should not be put off by the red tape. Numerous Native American businesses have taken advantage of the assistance which is at their disposal- both the financial aid which has helped finance their international operations, and non-financial support, which has helped them navigate their way through export regulations and logistics.

This guide is divided into five sections:

- 1. Exporting Process-** A summary of some of the main laws, regulations, costs, and logistics of exporting.
- 2. International Partners-** An examination of the intricacies of an international business partnership, and the importance of a clear and comprehensive contract agreement.
- 3. Legal Issues-** An overview of how export related laws and regulations can differ between the U.S. and foreign countries.
- 4. Financial Assistance-** A summary of some of the financial assistance available to small to mid-size tribal businesses that are looking to export.
- 5. Non-Financial Assistance-** A summary of some of the non-financial assistance available to small to mid-size tribal businesses that are looking to export.

¹ Note that for the purposes of this document "tribal businesses" include businesses owned by tribes and Alaska Native Corporations, unless stated otherwise.



Exporting Process

Regulatory Bodies & Licenses

While most export transactions do not require specific approval in the form of a license, licenses are sometimes required under U.S. federal law depending on the product and the intended foreign buyer. Licenses are issued by the appropriate licensing agency following a review of the details of a specific transaction. Different federal departments and agencies have jurisdiction over different products.

- **Department of Agriculture:** The Food and Safety Inspection Service (FSIS) at the U.S. Department of Agriculture (USDA) provides exporters with a guide for exporting meat, poultry and egg products. This includes regulations on packaging and labeling. USDA's Agricultural Marketing Service (AMS) provides exporters with an understanding of the transportation options, cost factors, and technical considerations associated with export transportation of high value agricultural products. The Animal and Plant Health Inspection Service (APHIS) at the USDA monitors the movement of risky materials, protects against the introduction of pets, and helps U.S. exporters meet the entry requirements of other countries. Additional information can be found here: http://www.usda.gov/wps/portal/usda/usdahome?navid=EXPORTING_GOODS
- **Department of Commerce:** The export of most non-agricultural products is regulated by the Department of Commerce. Licenses are sometimes required for dual use items, which refers to products that have both commercial and military applications. Dual use export licenses are required in certain situations involving national security, foreign policy, short-supply, nuclear non-proliferation, missile technology, chemical and biological weapons, regional stability, crime control, or anti-terrorism.
- **Department of State:** Export of defensive articles must be registered and approved by the Directorate of Defense Trade Controls (DDTC) at the Department of State prior to being exported. More specific information can be found here: <http://www.pmddtc.state.gov/index.html>
- **Department of Energy:** The export of natural gas and electric power is regulated by the Office of Imports and Exports, under the Office of Fossil Energy within the Department of Energy. More information can be here: <http://fossil.energy.gov/programs/gasregulation/index.html>

Export Controls

Export controls place limits on what and to whom U.S. businesses are allowed to export. Certain individuals and organizations are prohibited from receiving U.S. exports. Others may only receive goods if the transaction has been licensed. These regulations are laid out in Export Administration Regulations, [15 C.F.R Ch. 7](#). There are also various lists relevant to export transactions, dictating where and when trade is prohibited or limited:

- The Office of Foreign Assets Control at the Treasury Department has compiled a list of blocked persons, it can be found here: <http://www.treasury.gov/ofac/downloads/t11sdn.pdf>



- The U.S. Government also regulates the transfer of controlled technology and data. It is important to realize that this can occur within U.S. borders. For example, a company can inadvertently pass on controlled data to a foreign national who is an employee of the same company. To remedy this companies that conduct business with foreign nationals, either at home or abroad, are advised to conduct a review of their export control policies.
- The U.S. State Department maintains a list of parties who are banned from participating, directly or indirectly, in the export of defense articles, including technical data, or defense services: <http://pmdotc.state.gov/compliance/debar.html>

Laws & Regulations

Anti-corruption and anti-terrorism measures are regularly being upgraded and tightened, particularly since 9/11. It is vital for businesses to comply with the latest federal trade regulations.

Anti-Corruption Laws

- **The Foreign Corrupt Practices Act (FCPA):** This U.S. legislation, enacted in 1977 and later modified in 1998, prohibits bribery to foreign officials. While the language used is somewhat unclear and subject to interpretation, it is advisable to refrain from offering gifts of any nature to foreign officials.
- **U.S. and Local Anti-Corruption Laws:** Bribery is not only a violation of U.S. and foreign law. Growing global awareness of bribery has led to more nations adopting anti-corruption laws and regulations.
- **Money Laundering Laws:** The U.S. Congress has recently expanded the breadth of U.S. money laundering laws. Persons are

prohibited from engaging in transactions which involve proceeds derived from criminal activity. Companies are expected to remain vigilant for “red flags”, such as unusual secrecy surrounding a transaction, and to conduct in-depth due diligence prior to engaging in a trade.

Suquamish Seafoods is a subsidiary of the Suquamish Tribe based in Suquamish, Washington. The Enterprise has successfully captivated a share of the Chinese market with its harvest and export of geoducks, large clams that are a delicacy in China, and a treaty resource to the Suquamish Tribe. According to a Wall Street Journal article, the geoducks can go for upwards of \$50 per pound retail in Asian markets. As part of its export program, Suquamish Seafoods has been asked by some of its China brokers to supply a shellfish export certificate for their trade in a product that falls under the jurisdiction of the National Oceanic and Atmospheric Administration (NOAA). Under authority in the 1946 Agricultural Marketing Act, the NOAA Seafood Inspection Program provides inspection services for fish, shellfish, and fishery products to the industry. The NOAA Seafood Inspection Program is often referred to as the U.S. Department of Commerce (USDC) Seafood Inspection Program and uses marks and documents bearing the USDC logo. This is an example of an additional certificate which, while not required, may help exporters get their products into ports of entry otherwise closed to their product.



Anti-Terrorism Laws

Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act) of 2001: The primary parts of this Act that apply to international business are its rules against money laundering, including bribery of public officials, expansion of control over computer crimes, and expanded record keeping and reporting requirements. To facilitate the fulfillment of this act, businesses are expected to develop appropriate internal compliance policies, procedures, and controls. A compliance officer must be assigned and an independent audit must be commissioned to test that program. Furthermore, companies must be willing to conduct internal investigations, both in response to internal red flags as well as federal or state requests.

Shipping

There are four primary shipping methods available to businesses seeking to sell their product overseas. These are:

- 1. International Freight Forwarders:** These are companies which essentially offer a dock-to-door service and act as travel agents for the cargo industry. They will advise a business on exporting costs, including freight, port, and insurance charges. They will also do much of the necessary paperwork and reserve the necessary cargo space on a vessel, aircraft, truck, or train to ensure goods are delivered as efficiently and economically as possible. Many freight forwarding companies will make the necessary arrangements with overseas customs brokers. A directory of licensed freight forwarders can be found at: <http://www.ncbfaa.org/>
- 2. Shippers' Associations:** These associations are non-profit transportation cooperatives which arrange domestic and international shipment of members' cargo. A key benefit

to this form of shipping is the ability to aggregate and collectively ship cargo, leading to lower costs through economies of scale.

- 3. Express Delivery:** This is an expedited mail delivery service, often used for the shipment of smaller products, generally in smaller quantities.
- 4. Mail Services:** This encompasses regular mail services, speed and security vary depending on location. Generally used for items of low financial value.

Tariffs

Tariffs are applied to products depending on their nature, country of origin, and country of destination. While the average duty worldwide is approximately 5 percent, national sales tax, local taxes, and custom fees of the destination country will often be charged in addition to the tariff, further increasing the cost of exporting. It is important to note that tariffs are collected as the product clears customs in the foreign port.

Exemptions

Products made in the United States may qualify for duty-free entry into countries with which the United States has a free trade agreement (FTA). This list is constantly growing, but currently includes:

Australia	Israel
Bahrain	Jordan
Canada	Korea
Chile	Mexico
Colombia	Morocco
Costa Rica	Nicaragua
Dominican Republic	Oman
El Salvador	Peru
Guatemala	Singapore
Honduras	



Calculating the Tariff

The Harmonized System (HS) is an internationally recognized classification system used to organize products for customs purposes. The system works by assigning products with different six digit codes depending on their general category. Export codes, known as Schedule B numbers, are made up of this six digit code followed by an additional four digits. This ten digit Schedule B number is not only required for shipping, but can also be used to determine the tariff. Finally, to calculate the tariff a business needs to acquire its Schedule B number from the U.S. Census Bureau before entering it into this free service:

<http://export.customsinfo.com/Default.aspx>

Tax

Tax regulations are significantly more complex when they involve cross-border transactions. It is vital for businesses to gain competent tax advice prior to exporting. There are certain concepts of particular importance:

- **Transfer Pricing:** The practice of allocating costs in trans-border transactions to minimize taxes is known as transfer pricing. An example of this is a parent company using a subsidiary to create an incomplete product in a country with high profit tax. The subsidiary then sells the product to another subsidiary, located in a nation with a lower profit tax, for completion of the product and export. The parent company is able to set the price at which the semi-finished product is sold to the second subsidiary at a low cost. As a consequence taxable profits are reduced in the high-tax country and increased in the low-tax country. While this practice does reduce production costs it can lead to fiscal penalties. For additional information on U.S. regulation of transfer pricing visit: <http://www.ustransferpricing.com/laws.html>

Ho-Chunk, Inc. is an excellent example of a tribal business success story. It is an economic development company owned by the Winnebago Tribe of Nebraska. It was established in 1994 at which time it had a single employee. Today Ho-Chunk operates as an international company with over 1,000 employees. It owns twenty four subsidiaries across the globe, some of which have taken advantage of the SBA's 8(a) Business Development Program (see "Non-Financial Assistance" pp. 13-17.)

- **Foreign Tax Credits:** The federal government allows U.S. companies to take credits for certain taxes paid in select foreign jurisdictions. According to the IRS, U.S. taxpayers claimed over \$90 billion of foreign tax credits on individual and corporate tax returns in 2005. For additional information visit: <http://www.irs.gov/businesses/article/0,,id=183263,00.html>
- **Sovereign Immunity:** If a U.S. company plans on contracting with a foreign state or state owned entity, it is important to realize that these parties are generally immune from the jurisdiction of U.S. courts. Therefore, prior to entering this kind of contract it is advisable to determine whether the contract is with an organization which is exempt from external jurisdiction. The Foreign Sovereign Immunities Act (FSIA) governs when a foreign state, including its subsidiaries, is subject to U.S. law. For additional information on the FSIA visit: http://travel.state.gov/law/judicial/judicial_693.html



International Partners

There are numerous advantages to a U.S. exporter who establishes a business relationship with a foreign trading partner or enters into a joint venture. Such a relationship allows a company to access foreign markets with relative ease. It can also make the process of exporting far easier, as the foreign partner can take care of the necessary legal compliance in the country of distribution. The foreign partner can also assist with the delivery of the product, selecting delivery companies, and ensuring the product arrives on time. This can lead to an overall reduction in cost and an improvement in a company's image. However, like all business relationships, it is vital to conduct extensive due diligence prior to entering into an international business partnership.

Due Diligence

The production capacity and goals of a trading partner need to be ascertained prior to entering into any transaction with a potential foreign partner. Failing to do this could prove to be detrimental to a U.S. company. While forming an international partnership is commonly perceived as an attractive option it is not without risks. Perhaps the most serious concern is the divergence of interests over time. For example, during the 1990s the rise of emerging markets led many U.S. firms to establish joint ventures with foreign companies. As emerging markets grew, so too did the local partners. Consequently, these partners felt that they no longer needed their U.S. partner. This had serious consequences for many U.S. businesses, particularly because partnership and joint venture agreements often contain management provisions which can create a deadlock, without a means of resolution.

Due diligence is also important for gaining an understanding of the political and economic stability of the country or region that a U.S. business is exporting to. A company should be aware of relevant legal regimes, such as

multilateral, bilateral, and supranational agreements and organizations. It should also realize that the foreign legal system might be different from the common law practiced in the United States. This might result in the need to seek local legal counsel. A detailed understanding of the political situation is advisable, particularly when trading with nations which are known for political instability. A strong grasp of local culture and customs can often help facilitate a good working relationship between trading partners or between companies in a joint venture.

Conflict Resolution & Contract Terms

Regardless of the level of due diligence conducted, relations between a U.S. company and its trading partner, or between two businesses in a joint venture, can deteriorate. Depending on the circumstances there are generally two means of conflict resolution: litigation or arbitration. The form of conflict resolution chosen, as well as other particulars, depends on the original contract agreement. By ensuring a fair and comprehensive contract agreement a company can ensure it is better protected against potential conflict.



Litigation vs. Arbitration

Litigation	Arbitration
<ul style="list-style-type: none"> Typically both parties to an agreement will want to use their own domestic laws and courts as a venue for conflict resolution. This is largely because local judicial systems generally favor domestic parties. In order to prepare for the possibility of litigation in foreign court, a company should adequately protect itself by ensuring that its transactional documents contain advantageous governing law and venue clauses. However, dispute resolution in local courts should be considered, given that it is usually the most expedient method of enforcing solutions, such as injunctive or emergency relief and judgments. 	<ul style="list-style-type: none"> This form of conflict resolution is often used to avoid the prejudice which arises from local factors. To achieve an unbiased review, many international transactions state that parties must submit disputes to an international tribunal, located in a third country. There are numerous benefits of choosing arbitration over litigation, including a faster process, a strong availability of highly trained arbitrators, and an increased flexibility for parties to control the proceedings. On the other hand, arbitration is often more expensive and the verdict is harder to enforce, since it is removed from the local judicial system.

Native American Intellectual Property

Enterprise Council (NAIPEC) is an organization that supports inventions and innovations in the Native American community by providing quantitative patenting, copyright, and trademark assistance. Although this organization does not specialize in the exportation of products it may be of some interest to tribal businesses which are concerned with domestic IPR protection. You can join the organization as an inventor or simply visit their website to receive additional information:

<http://www.nativeamericaninventors.org/index.html>

See Also- **United States Patent and Trademark Association** under “Non-Financial Assistance” (pp. 13-17.)

Intellectual Property Rights (IPRs)

Intellectual property rights can include brands, inventions, and business methods and they are increasingly important to protect in the modernized international market. While many jurisdictions have IPR protective measures, their implementation is often inhibited by political, social, and economic factors. The most common methods of protection include patents, trademarks, and copyrights. These often involve registration in foreign jurisdictions. The Transatlantic IPR Resource Portal has been established in a collaborative agreement between the U.S. Department of Commerce and the European Commission’s Directorate General for Enterprise and Industry. It is intended to simplify the process by which transatlantic small to mid-size enterprises (SMEs) can access and utilize tools to protect IPRs. Additional information about the portal is available here:

http://ec.europa.eu/enterprise/initiatives/ipr/index_en.htm



Legal Issues

Bankruptcy

Bankruptcy laws differ depending on the jurisdiction; some countries allow the practice while others prohibit it. It is important to conduct sufficient due diligence into a foreign trading partner to ensure that they will remain solvent for the duration of the business relationship. Even in cases where bankruptcy is awarded it can be very difficult to withdraw assets, particularly in terms of cash repatriation.

Advertising

U.S. businesses should note that many nations impose stricter advertising regulations than the United States. An example of this would be the prohibition of product comparison in many other countries.

Fair Access to Foreign Contracts

To ensure that U.S. businesses are not discriminated against, [Export.Gov](http://export.gov) has its own advocacy center which helps to ensure that exported U.S. goods and services have the best possible chance of competing for foreign contracts. More information is available at their website: <http://export.gov/advocacy/>

Privacy Laws

U.S. companies should be aware of more stringent privacy laws in foreign countries. This is particularly true with respect to the European Union's privacy law

is particularly true with respect to the European Union's privacy laws. These laws essentially require businesses to register with government authorities prior to processing personal data. These regulations are laid out in the European Parliament and Council's Directive 95/46/EC of 24 October 1995:

<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31995L0046:en:HTML>

Sources of Funding

Many U.S. SMEs finance their international operations through the use of equity, debt offerings, and loans. It is important for a business to note the risks involved with these sources of funding (see also "Financial Assistance" pp. 13-16.)

Labor & Immigration Laws

Rights enjoyed by in-country workers vary dramatically from country to country. In certain countries local workers are afforded more rights and labor unions yield greater power than in the United States. As a consequence of this it can be very difficult to fire employees and some practices that are common in the United States can be very expensive in foreign countries. Conversely, taking advantage of countries which have poor workers' rights may be detrimental to a company's image.



Financial Assistance

There are various financial assistance programs which are available to small to mid-size tribal businesses. Some of these initiatives are available to all U.S. SMEs whereas others are more applicable to tribal companies. Similarly, certain financial aid programs are only relevant to exporters of agricultural products, but not necessarily useful for all SMEs. The following section is divided with these categories in mind.

Financial Assistance for all SME Exporters

Export-Import Bank of the United States (Ex-Im Bank)

The Ex-Im Bank is the official export credit agency of the United States. It provides financial assistance to U.S. exporters of all sizes but has a special initiative for small businesses called Global Access for Small Businesses. The program operates by offering working capital financing that enables U.S. exporters to obtain loans to facilitate the export of goods and services. These working capital loans are made by commercial lenders and backed by the bank's guarantee. Global Access for Small Businesses also provides support for foreign buyers to obtain competitive financing to purchase U.S. capital goods and services. The initiative is dedicated to dramatically increasing the number of small companies exporting goods and services, in order to maintain and create U.S. jobs. It is also part of President Obama's National Export Initiative. More information on the program can be found here:

<http://www.exim.gov/smallbusiness/>

The Global Access for Small Businesses initiative of the Ex-Im Bank has also helped many 8(a) companies. Success stories and customer testimonials can be found here:

http://www.exim.gov/sbgport/SB_success.cfm#askin

Small Business Administration (SBA) Initiatives

The SBA is the only independent agency of the federal government with the sole mission of assisting small businesses to start, grow, and prosper. The SBA offers loan guaranty programs that enable small business exporters to obtain working capital to finance pre-and post-shipment requirements. The loans can also go towards increasing global competitiveness, enhancing a company's ability to export a product, and helping finance long-term fixed assets. The SBA offers its export loan programs through a network of SBA Regional Managers located in Export Assistance Centers across the country.

In order to qualify for SBA initiatives a business has to be classified as "small". This assessment is made in one of two ways, either in the number of employees a company has had in the past year, or through a review of a company's average annual receipts over the past three years. There are some additional stipulations, which are listed here:

<http://www.sba.gov/content/am-i-small-business>

- **Government Contracting:** Federal, state, and local governments offer businesses the opportunity to sell billions of dollars worth of goods and services. Federal regulations set aside a contract quota for small



businesses. There are numerous types of contracting opportunities, both domestic and international. A comprehensive list can be found here:

<http://www.sba.gov/category/navigation-structure/contracting/contracting-opportunities>.

- Prior to bidding for these contracts companies must first register and be accepted as a federal contractor, the appropriate forms can be found here: <http://www.sba.gov/content/register-government-contracting>

Porter Scientific, Inc. (PSI) is a successful American Indian woman-owned small business providing environmental consulting, and technical and facility support. PSI is certified as SDB, EDWOSB, and HubZone by SBA. It has twice been awarded Business of the Year (UIDA and SBA) and received the Stellar Award from the U.S. Women's Chamber of Commerce. PSI has received various local, state, and federal government contracts, including one for \$3.5 million to manage the Industrial Water Treatment (IWT) program at Robins Air Force Base, Georgia. On other contracts PSI provides database management, environmental assessments, groundwater monitoring, storm water management, remediation, UST removal, and HazMat Transport and Disposal. PSI also qualifies for the American Indian subcontracting Department of Defense incentive program for prime contractors, providing a 5 percent rebate to a prime contractor on the total amount subcontracted to an Indian-owned business.

- **The SBA's 7(a) Loan Program:** This program provides financial aid to businesses with special requirements, including those that export to foreign countries. There are three specific export loan programs:

1. **Export Express Loan Program:** Simplest export loan program offered by the SBA, financing of up to \$500,000 can be awarded in less than 36 hours after an application is submitted.

2. **Export Working Capital Program (EWCP):** SBA provides lenders with up to 90 percent guarantee on export loans of up to \$5 million as a credit enhancement, so that lender will make the necessary export working capital available

3. **International Trade Loan Programs:** This program offers term loans for fixed assets and working capital to businesses that are looking to export, continuing to export, or even those that have been adversely affected by competition from imports. The proceeds of the loan must enable the borrower to become more competitive. Additional information for each loan program can be found here: <http://www.sba.gov/content/export-loan-programs>

- **State Trade and Export Promotion (STEP):** STEP is a 3 year pilot trade and export initiative. It is funded by federal grants and matching funds from the states. It is designed to help increase the number of exporting SMEs, as well as raise the value of exports for preexisting SME exporters. Assistance comes in numerous forms- from providing funding for foreign market sales trips, to website translation fees, to trade show exhibitions. More information about the STEP initiative can be found here: <http://www.sba.gov/content/state-trade-and-export-promotion-step-fact-sheet>



Financial Assistance for all Tribal SMEs

Native American CDFI Assistance (NACA) Program

This program is provided by the Department of the Treasury and is designed to help overcome identified barriers to financial services in Native communities. It is not to be confused with the Native American Contractors Association (NACA), listed in “Non-Financial Assistance.” It functions through Native Community Development Financial Institutions (CDFIs) which offer a range of financial products to Native communities. Native CDFIs are defined as those CDFIs that provide the majority of their support and services to tribal individuals or businesses. However, non-Native CDFIs are also potential sources of financial assistance to Native enterprises. The Native CDFIs have the ability to collectively work together to provide the required capital, as well as participate with third party lenders to provide the appropriate financing package. While each CDFI has their own individual loan size limits that vary by institution and product, they typically can issue business loans of up to \$250,000 or they can collectively loan millions of dollars to tribal borrowers depending on the size and needs of the business.

To find a CDFI, please go to the CDFI Funds’ website to download a list of all CDFIs: http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=3

Office of Indian Energy and Economic Development’s (IEED) Indian Loan Guaranty Program

The Department of the Interior’s IEED’s Indian Loan Guaranty Program is the only federal loan guaranty program with the sole mission of facilitating access to capital for Indian owned businesses. The Indian Loan Guaranty program

is a flexible program, providing up to a 90 percent guarantee on loans made to Indian owned businesses, so long as the business has an economic impact on a reservation or tribal service area. Guarantees on loans made to qualifying businesses can be used for a wide range of financing purposes, including:

- Working capital loans that may initiate or further the export of goods or services by providing the liquidity needed to perform on new business contracts, grow international sales and compete more effectively in the international marketplace.
- Facilities development and other long-term capital loans used to purchase, construct, renovate, or expand facilities and equipment to be used in the United States to produce goods or services involved in international trade.

IEED’s Indian Loan Guaranty Program can be accessed through its field offices located across the county. Additional information about requirements and field office locations can be found here:

<http://www.bia.gov/WhoWeAre/AS-IA/IEED/DCI/index.htm>

Financial Assistance for all Agricultural Exporters

USDA’s Foreign Agricultural Service (FAS) Export Finance Programs

The FAS offers finance programs specifically for exporters of agricultural goods and services. There are a few of particular relevance:



- **Export Credit Guarantee Program (GSM-102):** The Commodity Credit Corporation (CCC) of the USDA provides credit guarantees for commercial financing of U.S. agricultural products. The program encourages exports to countries where credit is necessary to maintain or increase U.S. sales, but where financing may not be available without CCC guarantees. For more information visit: <http://www.fas.usda.gov/excredits/ecgp.asp>
- **Facility Guarantee Program (FGP):** The CCC's Facility Guarantee Program (FGP) provides payment guarantees to facilitate the financing of agricultural goods and services exported from the United States to improve or establish agriculture-related facilities in emerging markets. For additional information visit: <http://www.fas.usda.gov/excredits/facility-new.asp>
- **Dairy Export Incentive Program (DEIP):** This program helps exporters of U.S. dairy products meet prevailing world prices for targeted dairy products and destinations. The USDA pays cash to exporters as bonuses, allowing them to sell certain U.S. dairy products at prices lower than the exporter's costs of acquiring them. The

objective of the program is to develop export markets for dairy products in countries where U.S. products are not currently competitive because of foreign subsidies. For additional information see: <http://www.fas.usda.gov/excredits/deip/deip-new.asp>

Financial Assistance for Tribal SME Agricultural Exporters

FSA's Minority Farmers and Ranchers Loans

An initiative which targets a portion of the FSA loan funds to small and startup farmers and ranchers. The criteria include a socially disadvantaged farmer who has not been in operation for more than 10 years. Furthermore, they cannot own a farm or ranch which is larger than 30 percent of the medium size farm in the country, as determined by the Census of Agriculture.

Additional information, as well as the application process, is available at local FSA offices, whose contact details are available here:

<http://www.fsa.usda.gov/FSA/webapp?area=home&subject=gfmlp&topic=sdl>



A Native farmer on horseback herding goats



Non-Financial Assistance

As well as the financial aid initiatives just discussed, there are many non-financial programs available to tribal SMEs seeking to trade internationally. Some of these are applicable to all exporting SMEs whereas others are more tribal specific (but may not be exclusive to export businesses). There is also a non-financial program designed to help tribal agricultural exporters. The following section is divided with these categories in mind.

Non-Financial Assistance for all SME Exporters

U.S Export Assistance Centers (USEACs)

These are localized centers which provide outreach and service operations for U.S. exporters. They are considered to be experts in trade and have more than 100 offices across the United States and Puerto Rico. They are designed to help U.S. businesses that are new to exporting as well as pre-existing ones that want to expand their operations in foreign markets. They also provide U.S. companies with additional international trade resources. USEACs work closely with the SBA and the U.S. Ex-Im bank. USEAC contact details can be found here:

<http://archive.sba.gov/aboutsba/sbaprograms/internationaltrade/useac/index.html>

BusinessUSA

On October 28, 2012 President Obama issued a memorandum directing federal agencies to make it easier for businesses to access government programs that support innovation and job growth. He directed the adoption of a “No Wrong Door” approach that uses technology to quickly connect businesses to resources from across the government that are most relevant to them. Subsequently, he directed the launch of a new initiative called BusinessUSA to implement this vision. It operates as a resource which combines information and services from more than ten different government agencies into one

consolidated website and a single, coordinated toll-free phone number.

It functions by connecting small businesses and exporters with relevant services and information. Although their website is currently functioning as a prototype it nevertheless contains useful information and interactive services for tribal businesses looking to export. Some of the more applicable programs are discussed in this guide, but the website does list other assistance programs which might be of interest. Furthermore, it gives an extremely useful state by state summary of localized assistance programs that are available to exporters. This can be found here:

<http://business.usa.gov/stateandlocal>

The general SBA website is designed to help both established exporters, as well as SMEs that are unfamiliar with the process. For more information visit their website:

<http://business.usa.gov/>

Select USA

Housed in the U.S. Department of Commerce SelectUSA is the U.S. government’s initiative to promote and facilitate business investment into the United States. SelectUSA helps both businesses interested in investing in the United States, as well as states, cities, and regions that are seeking to attract and host these businesses.



Select USA provides tribal governments and economic development office with information on federal programs and services available to business operating in the United States- including grants, loans, and other assistance programs. As an advocate, SelectUSA can help level the playing field for tribal economic development offices when competing with foreign locations for new foreign direct investment (FDI). Additionally, SelectUSA staff are available to share best practices on how to create or improve FDI attraction efforts.

Several programs are discussed in this guide and additional information can be found at: <http://www.selectusa.gov/>

International Trade Administration (ITA)

The International Trade Administration functions as an agency within the Department of Commerce. It has many roles, which include: strengthening the competitiveness of U.S. industry, promoting trade and investment, and ensuring fair trade through the rigorous enforcement of U.S. trade laws and agreements. Out of the numerous ITA initiatives, the most relevant to tribal SME exporters is the U.S. Commercial Service, a program which is solely designed to promote international trade. It has successfully helped U.S. companies establish operations in more than 75 nations across the globe. More information about this program is available here: <http://trade.gov/cs/>

ITA has a comprehensive website which covers a wide spectrum of trade topics, including trade barriers, export assistance programs, export compliance and trade events. As an organization it offers additional services such as export counseling and a means of reporting illegal trade barriers. For a complete list of topics and services visit their website: <http://trade.gov/index.asp>

United States Patent and Trademark Office (USPTO)

This is a Department of Commerce agency which is responsible for granting U.S. patents

and registering trademarks. The USPTO, through its Global Intellectual Property Academy (GIPA), offers instruction in protecting and enforcing all types of intellectual property, in the United States and overseas. Under its Native-specific educational outreach initiative, GIPA staff are available for programs and workshops, in the field or via webinar. The USPTO website not only provides copious amounts of useful information, but also allows companies to file applications online: <http://www.uspto.gov>

Non-Financial Assistance for Tribal SMEs

SBA's Native 8(a) Business Development Program

This is an SBA initiative which offers a broad range of assistance to small firms that are at least 51 percent owned and controlled by Native American individuals or tribes, Alaska Native Corporations (ANC), or Native Hawaiian Organizations (NHO). The program is a means of helping socially and economically disadvantaged tribal entrepreneurs gain access to American and global markets by applying for government contracts. Native companies in the 8(a) program benefit from the elements of the program directed specifically to their operations. In 2011 Native 8(a) contractors sold \$6.8 billion worth of goods and services to the federal government, totaling 40 percent of all 8(a) contracting.

Federally-recognized tribes, ANCs, and NHOs are also entitled to own multiple 8(a)s, as long as each has a different primary industry designation.

Businesses interested in qualifying for the 8(a) program must have been in operation for a minimum of two years and qualify as "small" under SBA regulations.

Participation in the program is divided into two phases, with the first consisting of a four year



developmental stage, followed by a five year transitional stage. 8(a) firms are also able to form joint ventures and collectively bid for larger prime contracts. Additionally, the SBA provides specialized business training, counseling, marketing assistance, and a high-level executive development program.

For additional information visit:

<http://imedia.sba.gov/vd/media1/training/sbdtool/player.html>

To register for the 8(a) Program, visit:

<https://sba8a.symplicity.com/applicants/guide>

SBA's Office of Native American Affairs

This division of the SBA is not specifically for Native companies looking to export but it is explicitly tribal SME focused. It conducts tribal consultations, assists with the development and distribution of promotional materials, and provides opportunities for tribal businessmen and women to attend national economic development conferences. More information is available here: <http://www.sba.gov/about-offices-content/1/2960>

Technical Assistance from the Division of Economic Development, Office of Indian Energy and Economic Development, U.S. Department of the Interior

This program is under the Bureau of Indian Affairs' Division of Economic Development (DED). The initiative is not specific to exporters but it is designed to help tribal businessmen and women. It offers management training at locations across Indian Country, providing learning opportunities for managers and officers of Indian owned enterprises. DED also collaborates with distinguished business schools and successful Indian entrepreneurs to teach tribal members how to start and sustain their own reservation based businesses. DED also encourages tribes to develop 8(a) businesses and to take full advantage of federal and state financial assistance opportunities. More information is available here:

<http://www.bia.gov/WhoWeAre/AS-IA/IEED/DED/NABD/index.htm>

Native American Contractors Association (NACA)

NACA aims to assist tribal businesses by preserving and enhancing the government's contracting participation with Native American companies. They are active in helping tribal businesses prepare their applications for the Native 8(a) business program as well as acting as an advocate for tribal businesses in Washington, D.C. Membership to the organization is structurally tiered so that payment is dependent on company size and revenue. Additional information is available at: <http://www.nativecontractors.org/>

National Center for American Indian Enterprise Development (NCAIED)

NCAIED is the largest non-profit, Indian specific, business organization in the nation. It aims to develop the Native private sector by increasing the number of tribal businesses. It is interested in the positive impacts that a strong tribal community has on Indian Country. NCAIED works to achieve its objectives by supplying management and technical assistance, as well as serving as a resource center for Native entrepreneurs. The programs offered or supported by NCAIED include:

1. **Native American Business Enterprise Center (NABEC):** This program currently operates NABEC centers through a cooperative agreement with the U.S. Department of Commerce, Minority Business Development Agency (MBDA). However, on September 1, 2012 the NABEC program will be incorporated into the [Minority Business Enterprise Center Program](#), operated solely by the MBDA. The centers are expected to function in a similar manner- providing tribal businesses with technical assistance, including 8(a) support, as they expand their operations. More information is available here: <http://www.ncaied.org/nabec-2/nabec/>



2. National Center Teaming Alliance (NCTA):

This program is funded by the SBA and provides support for tribal businesses as they pursue large federal contracting opportunities.

It also provides small tribal businesses with matchmaking opportunities, which may lead to the formation of tribal partnerships or joint ventures. More information is available here:

<http://www.ncaied.org/ncta/about-ncta/>

3. Global Native Trade Center (GNTC): This is an initiative that is designed to advance global opportunities for tribal businesses by cultivating relationships between Indian country and foreign nations. The program is offered in partnership with Forest County Potawatomi as well as UPS.

For additional information visit the NCAIED website: <http://www.ncaied.org/>

Four Fires LLC is an inter-tribal business partnership, consisting of the Viejas Band of Kumeyaay Indians, the San Manuel Band of Mission Indians, the Oneida Nation of Wisconsin, and the Forest County Potawatomi Community. Four Fires, LLC entered into a joint venture with a non-tribal business, Donohoe Hospitality, LLC. They collectively constructed the \$43 million Residence Inn by Marriot Capital, at 333 E Street, S.W. Washington D.C., just a few blocks from the National Museum of the American Indian. It is the partnership’s first completed project, and was viewed as the first of many projects designed to help develop a diversified and permanent economic base for these tribes.

Native Procurement Technical Assistance Center (PTAC)

PTAC is a non-profit organization which helps small tribal businesses in a number of ways. This includes registering for government contracts, training, consultancy, marketing assistance, as well as preparing for the 8(a) program. Operating in Washington, Oregon, Idaho, Alaska and Western Montana, PTAC is particularly knowledgeable in contracts issued by the DOD. Additional information can be found on their website:

<http://www.nativeptac.org/>

Forming Tribal Partnerships and Joint Ventures

The practice of forming international business relationships has already been discussed. However, business partnerships between tribal companies can also prove to be beneficial. These often allow partners to specialize, which may improve productivity while reducing costs. Furthermore, a tribal business partnership can allow Native businesses to apply for larger government contracts and potentially receive greater subsidies and grants.

There are certain programs that actively connect tribal companies, such as NCAIED’s NCTA, which helps tribal businesses form joint ventures. Alternatively, organizations such as NACA sponsor events where tribal businesses can meet, interact, share ideas, and possibly go into business together.

Non-Financial Assistance for all SME Agricultural Exporters

State Regional Trading Groups (SRTGs)

SRTGs are non-profit trade organizations and participants of the USDA FAS program. The SRTG organizations are funded through the FAS Market Access Program. They provide a broad range of programs and services to exporters of agricultural products. They educate U.S. businesses on the fundamentals of exporting, assist in identifying foreign opportunities, and

make introductions between U.S. sellers and potential foreign distributors. There are four regional SRTGs. Their contact details are available at:

<http://www.agexportlinks.org/sponsors.htm>

Non-Financial Assistance for Tribal SME Agricultural Exporters

Intertribal Agricultural Council's American Indian Foods Export Program

This is a joint initiative of the Intertribal

Agricultural Council and the USDA's FAS. It is a federally funded program- in the 2010 fiscal year it was awarded \$825,-196. The program teaches tribal businesses how to successfully export. It takes tribal companies to international food shows, and even reimburses travel expenses for one representative from each company. The program also matches tribal producers with foreign buyers, taking into account production capacity and demand. In order to qualify a business has to present a product which is exportable and passes USDA inspection. Additional information is available at: <http://indianaglink.com/>

Calista Corporation is an Alaska Native Regional Corporation, which was established in 1971 in order to create economic opportunities for approximately 12,500 Alaska Native Shareholders in Southwest Alaska. It is an enrolled NACA member and has access to all its programs and resources. Calista Corporation owns more than a dozen subsidiaries, collectively offering a broad spectrum of goods and services. One of its subsidiaries, Yulista Aviation, Inc., is an 8(a) certified company whose current customers include the U.S. military and the Department of Homeland Security. This company operates internationally with teams in the United States, Europe, and Asia.



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Tribal Businesses

Calista Corporation

Four Fires LLC

Ho-Chunk, Inc.

Porter Scientific, Inc.

Suquamish Seafoods

Organizations

Intertribal Agricultural Council

Native American Contractors Association

Native Procurement Technical Assistance Center

Government Offices and Departments

BusinessUSA

Community Development Financial Fund, Department of the Treasury

Native American Outreach Program, Farm Service Agency, Department of Agriculture

Office of Indian Energy and Economic Development , Department of the Interior

Office of Legislative and Intergovernmental Affairs, Department of Commerce

Office of Native American Affairs, Small Business Administration

SelectUSA, Department of the Commerce

United States Patent and Trademark Office



Individuals

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Mike Kane, Photographer, cover photo, taken of a Suquamish Seafoods worker packaging geoducks in preparation for export

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