



American Indians and Alaska Natives have served and continue to serve in the United States military at a higher rate per capita than any minority group. Here a Native veteran participates in the Navajo Nation's 2011 Veterans Day Memorial service in Window Rock, Arizona.

Credit: Donovan Shortey.

OUR TRUST. OUR PEOPLE. OUR AMERICA.

Fiscal Year 2013 Indian Country Budget Requests

Our Trust

Tribal nations in the United States are vastly diverse—as are the citizens that comprise them—but in the modern era, the common element responsible for revitalizing tribal homelands is tribal sovereignty at work. Effective self-rule requires that the US respect tribes' inherent right of self-government and that the federal government honor its trust obligations to Native peoples in the federal budget.

“Indian Nations have always been considered as distinct, independent political communities, retaining their original natural rights, as the undisputed possessors of the soil, from time immemorial...”
 - Chief Justice John Marshall, United States Supreme Court, *Worcester v. Georgia*, 1832

THE LONG ROAD TO PROSPERITY

Over the past few years, Americans everywhere have endured some of the worst economic conditions since the Great Depression. What America is experiencing today has been the story of Native peoples for decades. Tribal nations are familiar with the work required to overcome economic conditions that are stark and long-running, the remnants of broken treaties, land expropriation, and federal policies of forced removal and assimilation. In the face of such challenges, Native peoples have utilized the promise of self-determination to build the foundation for a prosperous future. As those with the most knowledge and greatest understanding of their respective communities, tribal leaders are uniquely positioned to develop solutions that will improve the lives of their people and address the longstanding effects of cultural disruption and poverty. The economic downturn dealt a setback not only to the nation but also to the progress of tribal nations. Tribes look forward to contributing to the economic recovery and a broader renewal of the American dream, but to do so, tribes must assume their rightful place as full partners in the American family of governments.

TRIBAL INNOVATION AND SOLUTIONS

The experiences of Indian Country in confronting adversity and adapting to hardship may hold lessons for the nation as a whole. While America navigates the waters of high unemployment, long-term joblessness, slow growth, Congressional gridlock, and frequent federal budget impasses, tribal nations are all too familiar with challenging economic times coupled with insufficient federal resources to meet the needs of tribal citizens.¹ Tribal leaders have found innovative ways to do more with less for generations. The solutions developed by tribes to counteract shortfalls tend to capitalize on the exercise of tribal sovereignty, which often requires a degree of program flexibility.

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The best illustrations of tribal innovation and efficiency came with the passage of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638) in 1975, which unleashed the power of tribal control and revolutionized the delivery of Indian services. This statute recognizes “the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of...Federal services to Indian communities.” The law also affirms Congress’s “commitment to the maintenance of the Federal Government’s unique and continuing relationship with, and responsibility to individual Indian tribes and to the Indian people as a whole.”² Under 638 contracts or self-governance compacts, tribes administer a vast array of governmental services, including healthcare, law enforcement services, education, housing, land and natural resource management, as well as providing many other vital social service programs. Program flexibility has allowed tribes to determine internal priorities, redesign programs, and reallocate financial resources to effectively and efficiently address the needs of their respective communities.

Before the Great Recession arrived in December 2007, most tribes had made tremendous progress under the policy of Indian self-determination in reversing decades of poverty and unemployment. A Harvard University analysis of socioeconomic change in the 1990s showed that Indian Country economies grew at a faster pace than the US economy as a whole.³ Tribal leaders attribute this success to investments in self-government.

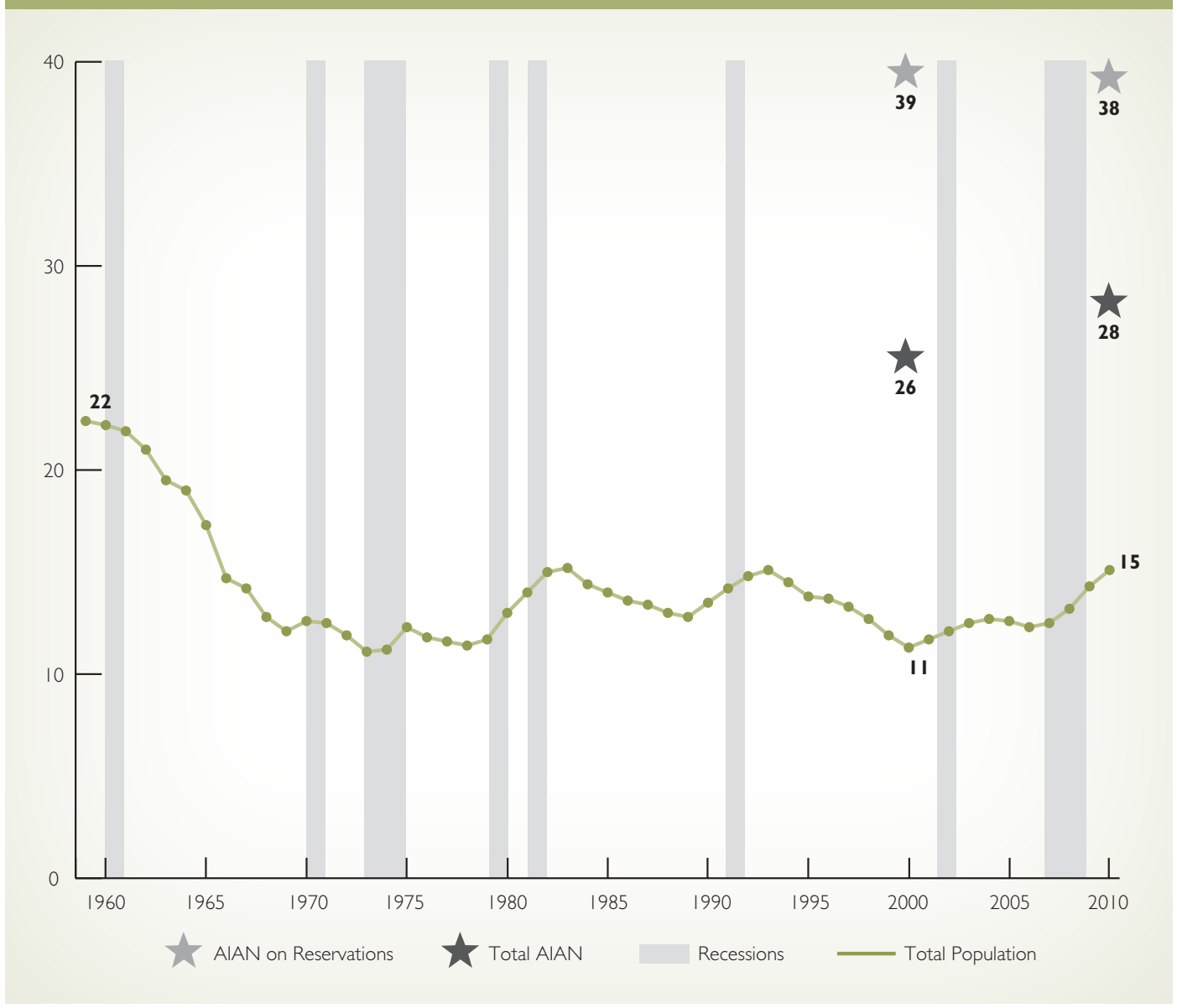
Other examples abound, showing that when tribes are acknowledged as sovereign governments and equipped with the tools for governing, they can build strong, healthy tribal communities. The federal government’s trust obligation to fund tribal programs is not only a solemn historic and legal duty, but the revitalization of Indian Country is a wise investment that contributes to the prosperity of the nation as a whole.

Our People

“You have noticed that everything an Indian does is in a circle, and that is because the Power of the world always works in circles, and everything tries to be round. In the old days when we were a strong and happy people, all our power came to us from the sacred hoop of the nation, and so long as the hoop was unbroken, the people flourished.” - Black Elk

Indian Country has been implementing its own plan for economic change, and the plan is consistent with the holistic, integrated ways of life of tribal peoples. American Indians and Alaska Natives have faced unthinkable economic and social conditions, with impacts that far outstrip the Great Depression (see Figure 1). However, tribes have been engaged in a long-term effort to restore their communities through nation-building and economic development. To advance tribal communities in America, the basic economic foundation of Indian Country must be sustained.

Figure 1: Percent of People Below the Federal Poverty Level



SOURCE: US Census Bureau, Current Population Survey, Annual Social and Economic Supplements and the American Community Survey.

LAY THE FOUNDATION FOR STRONG ECONOMIES

These FY 2013 budget recommendations represent necessary elements for a strong economic foundation in Indian Country. For instance, education is fundamental to long-term economic opportunities. Investments in tribal infrastructure must be made to address the inadequate roads, housing, and broadband systems that are all essential to commerce. Bolstering public safety is also a prerequisite for long-term economic development. Finally, support for energy and industry must be ramped up—although tribal lands contain a vast amount of the nation’s conventional and renewable energy resources, tribal governments face an array of challenges in developing those energy resources. All of these investments hold immense promise to contribute to regional economies, which serves to strengthen the American economy and build a better future for all Americans.

REMOVE BARRIERS TO ECONOMIC PROGRESS

In addition to laying the foundation for strong tribal economies, Congress can remove obstacles to economic progress in Indian Country. The barriers include those related to:

1) Taxation: Until all tribes retain exclusive taxing jurisdiction within the exterior borders of their tribal lands, federal support remains critical to ensure essential government services are delivered to tribal people and the trust responsibility is honored. For example, the inequity of “dual taxation,” where tribes are often required to share critical tax revenue with adjacent states, diminishes the capital that tribal governments are able to collect to fund essential services and programs for their citizens. Also, in many instances, “dual taxation” discourages non-Indian entities from partnering with tribes on economic development projects, such as energy development. Protection from state taxation, where the taxable incident occurs within the reservation, is a no-cost legislative option that would spur tribal self-governance in a manner consistent with tribes’ status as sovereign governments. Tribes also seek the tax related goals of ensuring that tribal cultural and educational program benefits are exempt from taxation, expanding the availability of tribal tax-exempt bond financing, and respecting tribes’ inherent right to regulate Indian commerce.

2) Tribal Energy: Further development of tribal energy would contribute significantly to national energy independence, clean energy, economic development, and job creation. A primary reason for underdevelopment is bureaucratic and financial barriers. For example, oil and gas producers must pay a \$6,500 application fee for a permit to drill in Indian Country, while in some states these permits cost as little as \$25. Both the Senate (S. 1684) and the House are currently considering legislation that would remove some of these obstacles. Such legislation provides low-cost and no-cost solutions to promote tribally-driven energy development.

3) Land into Trust: Another important barrier to remove is the uncertainty created by *Carcieri v. Salazar*, in which the Supreme Court overturned a longstanding interpretation of the Indian Reorganization Act of 1934 (IRA) and held that the phrase “now under Federal jurisdiction” limits the Department of the Interior’s (DOI) authority to provide benefits under the IRA to only those tribes “under Federal jurisdiction.” The authority of DOI to take land into trust for Indian tribes is one of the pillars of the United States’ trust responsibility towards Indian tribes. Without the ability to take land into trust, tribes are denied the opportunity to protect and develop their cultures and economies. Two years have passed since the *Carcieri* decision, and there are at least 14 pending cases where tribes and the Secretary of the Interior are under challenge. Many more tribes have land into trust applications that are stalled. These legal challenges are pushing a restrictive interpretation in conflict with broad federal constitutional jurisdiction over Indian affairs. Land acquisitions are delayed. Lending and credit are drying up. Tribal jurisdiction and law enforcement are threatened. Jobs are lost or never created. Tribal nations urge Congress to support legislation that will fully restore Interior’s authority to take land into trust for tribes.

These types of actions come without any cost to the federal government, and tribes urge Congress to help remove these barriers to economic progress.

TRIBAL INNOVATION SUPPORTS HUMAN PROGRAMS

“I remember the biggest lesson I ever learned ... ‘Take care of the old person you are going to become.’”

- Tlingit spiritual leader and statesman Dr. Walter Soboleff

Many factors contribute to the ability of Native people to take care of the “old person” he or she will become. Critical components to healthy tribal people include the enforcement of treaty rights to land, access to water, and subsistence hunting, fishing, and gathering of traditional foods.

Also essential to caring for ourselves is access to health care, adequate housing, culturally appropriate education, and meaningful work. Tribes have previously lacked the same resources available to other governments to provide for the public safety and welfare of their citizens, but through innovation and efficiency, tribes have found ways to meet the needs of our citizens.

In response to limited resources, some tribes have exercised the right to self-determination through what is known as the 477 program. Public Law 102-477 created this program in 1992 as a demonstration project to allow tribes to exercise their governmental authority to “integrate the employment, training and related services they provide in order to improve the effectiveness of those services, reduce joblessness in Indian communities and serve tribally determined goals consistent with the policy of self-determination.”⁴

The statute allows tribes to consolidate funding streams from the Departments of the Interior, Health and Human Services, and Labor into an integrated employment, supportive services, and training program with a single budget and single reporting system. The 477 program maximizes federal dollars for tribal governments by fostering agency cooperation while reducing administrative burdens. This flexibility allows the creation of programs that culturally meet the needs of tribal citizens and eliminate administrative duplication. In 2004, the 477 program received the highest Program Assessment Rating Tool (PART) rating of any program in the Department of the Interior (Indian Affairs) by the Office of Management and Budget.

A story from Alaska shows the impact on the ground:

“By the time Sandra, an Alaska Native single mother, enters the 477 Tribal TANF program at Cook Inlet Tribal Council (CITC), she is at her wits’ end. She is living with her two children, ages 8 and 10, in unstable housing, has no job skills, and suffers from addiction issues. However, once she arrives at 477 Tribal TANF, she encounters a virtually seamless, easily accessible service delivery system that encompasses rental housing assistance, childcare, job training and education, job search, and substance abuse support, in addition to temporary wage assistance. What is more, she doesn’t have to fill out countless applications—one form is adapted to several services to minimize wait time, so she is able to begin CITC’s retail training program even as she waits for temporary financial assistance to begin. Sandra receives childcare and bus passes to allow her time and transportation to attend the career training program, as well as access to a priority substance abuse assessment. Thanks to the CITC’s employment search assistance, she may land a job before her TANF benefits kick in. Meanwhile, she gets the opportunity to work with staff members who, like her, have ties to a village in rural Alaska, and can relate to her in various ways, so she feels comfortable accepting their help. She and her children begin to thrive.” (Rieger, 2011, p. 1)⁵

Other human services programs encompassing Indian health care, services for elders and people with disabilities, employment and training, education, child welfare, and housing must be sustained, as they have all experienced shortfalls for decades. Tribal leaders urge Congress and the Administration that, as they consider ways to address the deficit, the funding for human programs be sustained as a central part of the trust responsibility.

Our America

Native peoples, who inhabited their ancestral homelands in North America for 10,000 years before contact, have contributed immensely to the American story. Tribes are America's oldest governments and make up one of the three sovereigns recognized in the US Constitution, alongside states and the federal government. Although tribes have, at times, faced relentless political oppression and paternalism, they are rising from harsh economic conditions to contribute to a prosperous American tomorrow. Even before the Self-Determination Era, American Indians and Alaska Natives have shown commitment to the mutual success of tribal nations and the United States.

Although the nation is working to address various crises, from the budget deficit to unemployment to high levels of poverty, many times crisis can lead to unexpected progress and growth. During another period of adversity in American history, World War II, a global emergency offered unparalleled opportunities for Native people to contribute to the larger American society. Even before all American Indians were allowed to vote, 24,521 reservation Indians and another 20,000 off-reservation Indians served in World War II, representing more than 10 percent of the Native population and one third of all eligible Native men from 18 to 50. In some tribes, the percentage of men serving was as high as 70 percent. Native people responded to the call to defend life, liberty, and the pursuit of happiness. Serving in a time when many states denied them the right to vote, Native people demonstrated intense loyalty to a country that had not always returned the favor. However, these service members were treated as equals in the military and upon their return brought raised expectations for Indian Country, which proved to be an enormous motivation for tribal advancement. Helen Peterson (Lakota and Cheyenne) said, "World War II revived the Indians' capacity to act on their own behalf."

Before the United States entered the fray of World War II, the United States sent supplies to assist Britain. President Franklin Roosevelt sent these words in January of 1941 to encourage Winston Churchill, saying the poem applied equally to Britain as to the United States:

*. . .Sail on, O Ship of State!
Sail on, O Union, strong and great!
Humanity with all its fears,
With all the hopes of future years,
Is hanging breathless on thy fate!*

– Henry Wadsworth Longfellow

At the time, Churchill was seeking to convince Roosevelt to enter the war. Churchill responded to President Roosevelt with, "Put your confidence in us. Give us your faith and your blessing, and, under Providence, all will be well. We shall not fail or falter; we shall not weaken or tire. Neither the sudden shock of battle, nor the long-drawn trials of vigilance and exertion will wear us down. Give us the tools, and we will finish the job."

Churchill's words carry a significant message for tribes today, just as they did to Roosevelt in 1941: "Give us the tools, and we will finish the job." It is simple: give tribes the tools to succeed, and they will, and so will America. Tribes are committed to the ship of state as part of the American family of governments, but the United States must live up to its trust responsibility and provide tribes the tools to govern. Invest in our partnership, and Indian Country will finish the job.

BUDGET CRISIS

The United States is facing serious fiscal problems caused largely by the imbalance between revenues and rising costs in the health care system. Over the next decade, federal budget deficits are projected to grow primarily due to the economic downturn, the 2001 and 2003 tax cuts, and war spending. Decision-makers in Congress and the Administration are focused on the goal of reducing deficits sufficiently to stabilize the debt relative to the size of the economy. Disagreements about the role of the federal government and tax policy have resulted in an often delayed budget process and raised the specter of federal government shut downs on more than one occasion. Last year, Congress passed the Budget Control Act of 2011, which includes binding limits on annual appropriations that reduce projected funding for discretionary programs by about \$1 trillion through 2021. Under these caps, discretionary spending will shrink from about 9 percent of gross domestic product (GDP) in 2011 to 6.2 percent in 2021, well below the 8.7 percent average over the past 40 years.

Overarching Recommendations

Indian Country recognizes the state of the economy, the pressures on government at all levels, and the related challenges for job seekers. Tribes have been doing more with less for generations, and we propose the following general recommendations to help our communities, our neighbors, and the United States as a whole.

- 1) Continue to promote the successful and efficient initiatives in Indian Country that work, such as Self-Determination programs. Critical to implementing these policies are the Bureau of Indian Affairs funding streams for Tribal Priority Allocations, Contract Support Costs, and Tribal Grant Support Costs. Tribes also urge support for programs that maximize the federal tax dollar, such as the 477 program. In the administration of the 477 Act, tribes urge the continuation of funding through Indian Self-Determination and Education Assistance Act agreements and contracts and relief from the reporting obligations instituted by the Office of Management and Budget Circular A-133.
- 2) Remove barriers to tribal advancement and economic development. This includes exempting tribal government cultural and educational program benefits from federal taxation, expanding the availability of tribal tax-exempt bond financing, and ensuring tribal tax jurisdiction over activities occurring on leased rights-of-way and trust lands without interference by state and local government taxation. Finally, tribes urge Congress to support legislation that will fully restore the Secretary of the Interior's authority to take land into trust for tribes.
- 3) Tribal leaders urge Congress to uphold its solemn promises to tribes, even as policymakers seek to reduce the deficit through spending reductions and revenue generation. The obligations to tribal citizens funded in the federal budget are the result of treaties negotiated and agreements made between tribes and the United States in exchange for land and resources, known as the trust responsibility. The fulfillment of this trust responsibility is a solemn historic and legal duty.

The foregoing FY 2013 tribal budget program requests have been compiled in collaboration with tribal leaders, Native organizations, and tribal budget consultation bodies. Tribes respectfully request that these recommendations be included in the appropriations process.