

Committee on Natural Resources
Subcommittee on Indian and Insular Affairs
Oversight Hearing
1324 Longworth House Office Building
February 3, 2026
2:00 PM

"Making Federal Economic Development Programs Work in Indian Country"

Questions from Rep. Westerman for Chairman. Rodney Butler, President, Board of Directors, Native American Finance Officers Association

1. *NAFOA's recommendations stated that reducing administrative burdens, improving communication and time management timelines, and providing technical assistance and capacity building are all valid areas needing improvement.*
 - a. *Which would have the greatest immediate impact on improving tribal access to economic development programs or capital?*
 - i. In the short term, providing additional technical assistance and capacity building would most benefit Tribal access to economic development programs and capital. By answering Tribes' immediate questions about program rules and changes, Tribes would be better positioned to consider, apply, and implement various economic development programs.
 - ii. In the long run, all three recommendations would have a major positive impact, vastly improving Tribal access to economic development programs and capital. Most importantly, Tribal input and consultation in the design and implementation of federal programs is critical.
 - b. *Which of these changes could agencies implement under existing authorities?*
 - i. Across almost every program, the Administration is able to implement changes to "improve communication and time management timelines" without any type of new language or authorization from Congress. The Administration can issue rules/guidance/comments/etc within a timeframe that allows Tribes to consider and respond. This change would have the most positive impact for Tribes with limited ability to quickly hire or assign staff in response to a programmatic change.
 - ii. The ability for the Administration to reduce administrative burdens and provide technical assistance/capacity building without any authorizing changes will vary from program to program, but NAFOA encourages Congress to consider legislation that would collect data on Tribal programs, and include an Administration review of Tribal programs and offices to see where those changes are possible.

2. *Tribes often face challenges rooted in how existing economic development programs are administered.*
 - a. *Where would reforms and reductions in red tape most effectively alleviate unmet needs across tribal economies today?*
 - i. For the Administration, NAFOA recommends streamlining application processes, standardizing forms and contracts across programs where possible, eliminating duplicative requirements, and addressing regulatory and statutory uncertainties. Regulatory uncertainty creates far more work and red tape for Tribes, and discourages smaller Tribes from considering programs from which they might otherwise benefit. It forces Tribes to spend time and money justifying their program, and the Administration wastes resources issuing clarifications or having inconsistent reviews.
 1. The “essential government function” test is an example of how uncertainty creates more red tape, forces Tribes to spend unnecessary time/money, and creates lost opportunity costs.
 2. The tax status of Tribally chartered corporations was another issue that was resolved with TTAC consultation this past December, but it took roughly two decades for Tribes to get a final rule.
 - ii. Congress can help reduce red tape and administrative burdens on Tribes by drafting legislation that standardizes application and reporting requirements, and where practical, consolidating funding opportunities to streamline access for Tribes. Funding additional technical support for Tribes would help ensure they have a place to go for questions and program issues. Also, ensuring that Departments are authorized to answer all types of questions Tribes might have is critical.
 1. As Tribes increasingly access and use Federal tax credits, the need for technical assistance from the IRS is growing. As NAFOA testified before IIA in 2023 on Direct Pay:
 2. “Another major issue is the lack of technical assistance that the IRS and Treasury can offer tribes. To this point, tribes do not file federal income tax. So how would they access a federal income tax credit payment? Our understanding from IRS statements is that they do not have the legal authority to provide this assistance. There needs to be an authorization that will allow the IRS to give in-depth information and technical assistance to tribes, similar to the types of technical assistance available with many other tribal programs, as well as a place where tribes can go to ask for guidance or clarification.”¹
 - iii. Additional outreach to Tribes would also help address unmet needs. Per GAO’s 2022 report, “Tribal organizations GAO spoke with said many tribes have limited capacity to identify and access programs and may not be aware of the federal assistance available. ... Without information on available programs, tribal entities

¹ From NAFOA testimony as part of: “House Natural Resources Subcommittee on Indian & Insular Affairs Oversight Hearing On Implementation of the Indian Tribal Energy Development & Self-Determination Act September 28th, 2023”

may not access programs that could provide valuable benefits to tribal communities.”

- iv. Finally, an administrative review of how Tribal programs and tax credits interact would be extremely beneficial across the board.
 - 1. An example of this issue that costs Tribes money and has actively prevented a number of projects is the Department of the Interior’s Indian Loan Guarantee Program (ILGP) and recently reauthorized New Market Tax Credit (NMTC). As currently written, tribes cannot take advantage of the NMTC if going through the Indian Loan Guarantee Program. This prevents both programs from being used to their full potential, and especially hurts smaller Tribes that might otherwise be able to fund a project if both programs could be used together.
- 3. *Last year marked the 50th anniversary of the Indian Self-Determination and Education Assistance Act (ISDEEA).*
 - a. *Where have ISDEEA contracts and compacts demonstrably reduced administrative burden in economic development programs?*
 - i. This is an area where NAFOA will perform additional research among our Member Tribes and provide information at a later date.
 - b. *How could the successes of ISDEEA be applied to other federal programs to promote economic development in Indian Country?*
 - i. Programs able to utilize self-determination contracts and compacts under the ISEEA should do so. Moving forward, consideration should be given to allow future programs to work through ISDEEA. Reducing administrative complexity makes programs more accessible and allows Tribal staff to focus resources on program implementation rather than navigating bureaucratic processes.
- 4. *You recommend greater use of ISDEEA contracts and compacts.*
 - a. *Are there economic development functions currently administered through grants that would be better suited for self-determination contracting?*
 - i. NAFOA will be collecting information on individual programs and grants to make a recommendation to the Committee and Subcommittee.
- 5. *What technical assistance or capacity-building efforts have the highest return for tribes? What, in your opinion, makes them so effective?*
 - i. From initial discussions during our work with GAO, the technical assistance that is authorized to answer questions across the board has been most impactful, as it is impossible to predict the types and variety of questions an agency might receive about a given program or grant. Especially since individual Tribes view the implementation of those grants/programs differently based upon their size, capacity, and issue being addressed. Flexibility, such as with programs, is key.
 - ii. Data collection and constructive feedback for Tribal applications also increases assistance efforts. In 2023, GAO recommended that the National Telecommunications and Information Administration (NTIA) should provide applicants who receive equitable distribution grants constructive feedback, helping applicants improve their applications for the second round of funding. NTIA implemented the recommendations and provided technical assistance and

guidance materials, including feedback from first-round applications, in-person technical assistance group sessions, and virtual assistance group sessions.

- b. *In those successful cases, what aspects of program design or delivery mattered most? Was it timing, flexibility, clarity of requirements, or integration with other ongoing projects?*
 - i. From experience talking with Tribal leaders and staff, due to the unique differences facing each tribe and how different federal programs are implemented, there is no one across-the-board factor determining a program's success. However, increased consultation and communication on the part of the Administration can help alleviate these issues by helping the staff administering and writing the rules for the program understand the issues facing the Tribal governments that will have to implement.
 - ii. A recent GAO report titled "Justice40: Additional Efforts Needed to Improve Tribal Applicants' Access to Federal Programs Under Environmental Justice Initiative"² found "certain program characteristics create barriers to tribal applicants' ability to access selected covered Justice40 programs, including cost shares, administrative burdens, and certain statutory and regulatory requirements." The report included programs from Dept of Agriculture, FEMA, and EPA, and in almost all of the report's nine recommendations was a recommendation for increased Tribal outreach. From the first recommendation to the EPA:
 1. "The Administrator of EPA should ensure that the program offices of EPA Justice40 covered programs document previously identified statutory and regulatory barriers to access for tribal applicants informing their implementation of the Justice40 Initiative. As a part of this process, the agency should—with input from Tribes—identify any additional changes necessary to address remaining statutory and regulatory barriers, recommending legislative changes where the agency determines appropriate. The agency should make a summary of the results of this process publicly available."
6. *What steps can Congress take to improve government-to-government coordination and reduce capacity mismatches between tribes and federal agencies?*
 - i. To improve coordination, NAFOA recommends providing training to agency staff on the government-to-government relationship, how to implement consultation effectively, increasing Administration outreach to Tribal governments and organizations to ensure **all** Tribes are aware of funding opportunities and assistance, and providing feedback to Tribal applicants in a timely manner.
 - b. *How should Congress measure whether coordination has actually improved?*
 - i. Congress can increase its outreach, such as the Subcommittee's recent oversight hearing, to receive feedback directly from Tribal leaders and organizations. Additionally, we recommend that Congressional Members visit Tribal headquarters in their own districts and, where possible, that Committees schedule

² Report code: GAO-24-106511, <https://www.gao.gov/products/gao-24-10651..1>

fact-finding trips so Members can hear from Tribes they might not otherwise have the opportunity to.

ii. Lastly, it is critical that Congress requests the Administration collect more data on existing Tribal programs and going forward includes data collection as part of legislation authorizing new programs. From the 2022 GAO report titled “Tribal Economic Development: Action is Needed to Better Understand the Extent of Federal Support”:³

1. “By analyzing program data, USDA’s Office of Tribal Relations and SBA’s Office of Native American Affairs could develop an estimate of obligations made to tribal entities. Such an estimate would allow the agencies to better understand the extent to which tribal communities are accessing their programs and identify programs or areas where tribal entities may need additional outreach or support as they pursue economic development opportunities.
2. In addition, by publicly reporting this information periodically, these offices and Commerce’s Office of Native American Business Development would help decision makers, such as Congress, better understand tribal access to federal government economic development assistance and potentially identify opportunities for expanding use of such programs by tribal entities.”

7. *You reference the Department of the Treasury’s Tribal Advisory Committee as a success.*

a. *Why has the Treasury’s Tribal Advisory Committee been more effective than similar interagency efforts? Which elements of Treasury’s model can be transferable to other agencies to implement?*

- i. First, I want to emphasize the staffing component of the Department of the Treasury’s Office of Tribal and Native Affairs (OTNA) and TTAC. At all levels, the Department has been responsive to Tribal input and consultation. Additionally, the staff at OTNA has an understanding of how Tribes operate, background on Tribal-specific issues and challenges, and has a strong working relationship with both individual Tribes and Tribal organizations.
- ii. Secondly, OTNA and Treasury have been in constant contact with TTAC, national Tribal organizations, and individual Tribes. Treasury understands that consultation is a consistent process, not a one-off meeting, and that maintaining a dialogue with Tribal stakeholders has enabled the Department to better understand and respond to important requests.
- iii. Many of the programs that Treasury administers have the necessary flexibility to implement the consultation and feedback Treasury receives from Tribes. Even the best consultation process can hit a roadblock if the administering agency lacks the ability to implement critical feedback.
- iv. Almost all elements of Treasury, OTNA, and TTAC can be replicated/transferable to other agencies; it is just a matter of whether the agency has the desire and patience to implement these changes. It would take time to

³ Report code: GAO-22-105215, Page 25, <https://www.gao.gov/assets/gao-22-105215.pdf>

2. In 2024, the Minneapolis Fed found that “From 1987–2010, only 17 percent of the 565 federally recognized tribes at the time issued tax-exempt bonds. Tribal participation in the overall tax-exempt bond market rarely surpassed one-fifth of 1 percent in any given year—well below what we would expect from the census population estimate of 1.5 percent of the U.S. population at that time. On a per capita basis from 2003 to 2010, state and local governments averaged \$597 in annual per capita tax-exempt bond issuances, compared to only \$127 per tribal citizen. Moreover, from 2014 to 2020, state governments issued an annual average of \$47 billion in tax-exempt bonds, compared to an annual average of \$84 million by tribal governments. This equates to a 559-fold gap in the usage of tax-exempt government bonds. These statistics show that rural tribal communities with great need for infrastructure and economic development must pay higher capital costs to develop the same projects as non-tribal communities, resulting in underinvestment.”⁵
- ii.* Implementing the Tribal Tax and Investment Reform Act (to be introduced in the House by Congresswoman Moore and Congressman Schweikert and in the Senate by Senator Cortez Masto and Senator Murkowski as S. 2022) would be the best way for Congress to address these issues.

⁵Article “Tax code constraints limit tribal tax-exempt bonding”
<https://www.minneapolisfed.org/article/2024/tax-code-constraints-limit-tribal-tax-exempt-bonding>