

**NATIVE AMERICAN LENDING STUDY/
ACTION PLAN REGIONAL REPORT**

**Southwest Region
Workshop
April 28-29, 1999
Albuquerque, New Mexico**

Sponsored by
Community Development Financial Institutions Fund
U.S. Department of Treasury
And
All Indian Pueblo Council



**THE COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND
DEPARTMENT OF THE TREASURY**

NATIVE AMERICAN LENDING STUDY/ACTION PLAN

OVERVIEW

This report summarizes the proceedings of the regional workshop conducted by the CDFI Fund in association with regional sponsoring Native organizations. The report also provides highlights of the study, the related CDFI Fund mission, the regional workshop process, affected stakeholders and a profile of participants. The results of the workshop are organized according to the major building blocks of the workshop agenda (also included) and accurately represents the wide range of issues, strategies and proposed actions that were developed through break-out teams of involved participants and stakeholders.

PURPOSE OF THE STUDY

The Native American Lending Study/Action Plan was authorized in the CDFI Fund's enabling legislation and requires the Fund to investigate and make recommendations to Congress and the President to eliminate barriers to private sector lending and investment on Native American Reservations and other land held in trust by the United States.

SCOPE OF REGIONAL REPORT

This report includes the following major sections:

- Native American Lending Study – An overview of the purposes of the study, a certification of authenticity of the contents and recognition of the co-sponsoring and supporting agencies.
- CDFI Fund Mission and Study Mandate – Summary of the overall CDFI Fund mission and outline of the major requirements established by Congress in Public Law 103-325.
- Workshop Process and Stakeholders – A summary of the process and principles that drive the workshop approach, as well as a listing of the major stakeholders involved in and affected by the proceedings of this report.
- Definitions – Definitions of terms used in defining barriers, impacts, strategies and actions as well as the responsibility and time frame codes used for the action planning step in the workshop process.
- Workshop Participants – A summary of the breakdown of the major types of stakeholders involved in the workshop.



- Workshop Agenda – The agenda for the two day session, noting the emphasis on team break-out sessions and presentations for maximum interaction among stakeholders, sharing of ideas and concerns, and bottom up planning on solutions to overcome identified barriers.
- Issues, Ideas and Remarks – Selected quotes from the court reporter transcript that represent the voices and visions of participants during the presentation segments of the workshop.
- Barriers and Impacts by Teams – A listing of the complete range of barriers and their related impacts developed by teams during the initial break-out sessions.
- Top Five Priority Barriers by Teams – The rank order priority barriers established by each team after reviewing and rating the entire range of barriers and impacts identified in the previous section.
- Priority Barriers and Their Impacts – A summary of the related impacts for each of the rank order priority barriers identified by each of the teams.
- Team Strategies and Actions – The strategies and action plans developed by the teams for each of the top five priority barriers. The action plans include identification of responsible parties and implementation timeframes.
- Participants – A list of workshop participants and their organizations.

DISCLAIMER

The contents of this report represents the recorded results of regional workshop proceedings. Materials in this report are derived from professional court reporter transcripts of proceedings, as well as presentation materials (flipcharts) prepared by workshop participants. As such, it is an authentic summary of participant issues and ideas and does not represent the policy or position of the U.S. Department of the Treasury.

CREDITS

The CDFI Fund expresses its deepest appreciation to the All Indian Pueblo Council without whose extensive efforts this regional workshop would not have been possible.

WORKSHOP FACILITATOR

Charles W. Johnson, The Johnson Strategy Group, Inc.



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INTRODUCTION

CDFI FUND MISSION

The Community Development Financial Institutions (CDFI) Fund mission is to promote access and local economic growth by directly investing in and supporting community development financial institutions (CDFIs) and expanding financial service organizations' lending, investment, and service within under-served markets.

NATIVE AMERICAN LENDING STUDY MANDATE

Public Law 103-325-SEPT. 23, 1994 (108 STAT. 2187)

SEC.117.(c) Native American Lending Study –

(1) In General. – The Fund shall conduct a study on lending and investment practices on Indian Reservations and other land held in trust by the United States. Such study shall –

(A) identify barriers to private financing on such lands; and

(B) identify the impact of such barriers on access to capital and credit for Native American populations.

(2) Report. – Not later than 12 months after the date on which the Administrator is appointed, the Fund shall submit a report to the President and the Congress that-

(A) contains the findings of the study conducted under paragraph (1);

(B) recommends any necessary statutory and regulatory changes to existing Federal programs; and

(C) makes policy recommendations for community development financial institutions, insured depository institutions, secondary market institutions and other private sector capital institutions to better serve such populations.

WORKSHOP PROCESS

To assist in completing the study, the Fund is developing strategies and action plans to address key financing barriers and their impacts. This action plan is developed through thirteen regional workshops and one round table workshop in Washington, D.C. The regional workshops have the following major features:



1. Invitation to key stakeholders, including Native American organizations and populations, private for-profit and not-for-profit financial institutions, Federal financial regulatory agencies, and State/local agencies involved in the financing and economic development arena.
2. Workshops considered all types of lending and investing.
3. Ninety percent of the workshop involved break-out sessions where participants defined barriers, their impacts, strategies and action plans. Participants were encouraged to define solutions and strategies, not just problems and barriers.
4. Complete recording of results using professional court reporters and flipchart summaries of break-out sessions deliberations.
5. Maximum face-to-face networking among participants, resulted in two-way education and built a foundation for future partnerships.
6. Results and relationship development are expected to have a “shelf-life” beyond the workshops and reports to Congress and the White House.

STAKEHOLDERS IN THE NATIVE AMERICAN LENDING STUDY

- U.S. President
- U.S. Congress
- Tribes and Native American Organizations
- Not-for-Profit Organizations
- Federal Financial Regulatory Agencies
- Federal Agencies
- Financial Institutions
- Secondary Market Organizations
- State Agencies

PARTICIPANT STATISTICS

Of the 66 participants attending the workshop:

- 22 were from Tribes
- 23 were from the private sector
- 21 were from the Federal, public, not-for-profit or educational sectors



DEFINITIONS OF TERMS

The following definitions were used by workshop participants and apply to this report:

Barrier Any impediment to lending and investment practices on Indian Reservations and other land held in trust by the United States. Barriers occur in a variety of forms, including Tribal, private sector, not-for-profit, State, Federal and regulatory settings.

Impact The effects on Native American populations on the inability to gain access to credit or capital for many types of financing or lending purpose. Each barrier can have more than one impact.

Priority The top five barriers in rank order with 1 being the highest priority.

Strategy A well thought out course of action to be taken to remove barriers and minimize their impacts. Strategies are generally longer term, involve a variety of resources and move toward measurable results. Each priority barrier can have more than one strategy.

Action The implementation of a strategy, having an outcome, a responsible party and a schedule for completion.

Responsibility The party or parties accountable for completing an action. For the purposes of this report, the following responsibility codes are used:

- Federal Agency (SBA, BIA, CDFI Fund, HUD, etc.)
- Federal Regulatory Agency (Federal Reserve System, Office of Thrift Supervision, FDIC, etc.)
- Financial Institution (commercial bank, credit unions, savings & loan, etc.)
- Intertribal Organization (Inter-Tribal Council, Tribal business association, etc.)
- Other (specify)
- State Entity (State government, State Financing Authority, etc.)
- Tribal Entity (Tribal government, Tribal enterprise, etc.)
- U.S. Congress
- U.S. President

Time Frame Time frames are as follows:

- Short term or up to 1 year
- Medium term or from 1 to 5 years
- Long term or 6 plus years



WORKSHOP AGENDA
CDFI FUND NATIVE AMERICAN LENDING STUDY/ACTION PLAN
SOUTHWEST REGION WORKSHOP
Albuquerque, New Mexico
April 28-29, 1999

Wednesday, April 28

- 7:45 A.M. Continental Breakfast
- 8:30 Opening: Greeting and Remarks by AIPC, Prayer
- 8:45 Welcome and CDFI Fund/Process Overview-Rodger Boyd, Program Manager, CDFI Fund
- 9:15 Workshop Groundrules and Formats-Facilitator
- 9:30 Stakeholder Break-out-Initial Barriers and Impacts Definition
- 10:30 Break
- 11:15 Stakeholder Presentations
- Noon Lunch
- 1:00 P.M. Break-out Guidelines and Team Selection
- 1:15 Team Break-out: Barrier Priorities
- 3:00 Break
- 3:15 Team Break-out: Strategies
- 4:45 Team Presentations: Strategies
- 5:30 Adjourn

Thursday, April 29

- 7:45 A.M. Continental Breakfast
- 8:30 Opening-Recap of Priorities and Strategies from Day One-Rodger Boyd, Program Manager, CDFI Fund
- 8:45 Guidelines for Action Planning (Strategies and Actions)-Facilitator
- 9:00 Team Break-outs: From Strategies to Actions
- 10:30 Break
- 11:45 Team Presentations: Action Plans
- 12:30 P.M. Closing and Next Steps-Rodger Boyd, Program Manager, CDFI Fund
- 1:00 Adjourn



OVERVIEW

In order to provide a sense of the perspective and passions of participants, selected quotes from participant presentations have been abstracted from the court reporter transcript. This is a representative mix of the voices and visions and helps tell the story about concerns raised during the course of the workshop.

ISSUES, IDEAS AND REMARKS

“For the next two days we’ll get a chance to undo what was never done; we’ll begin what was never started; and we’ll rectify what should never have been broken, which is trust.”

—Darrell Felipe, All Indian Pueblo Council

“In Pueblo land we are beginning the season of what we call ‘Feast Days’ where we invite people of all nations and colors into our homes to share a meal at our dinner table. No one is refused. So today we ask you, lenders and other corporate America people here today, to invite us to your dinner table.”

—Darrell Felipe, All Indian Pueblo Council

“...most people just flat don’t understand how Tribal governments are set up. ...A lot of times, they look at it as “no-mans-land.”...The impact of that is that there’s a great fear of investment.”

—Richard Kontz, Navajo Partnership for Housing

“...the Tribal culture doesn’t understand the other side, the financial culture. In some cases, some of your Tribal cultures don’t even have language terms that describe some of the financial terms like ‘rate of return,’ ‘loan to value,’ ...

—Richard Kontz, Navajo Partnership for Housing

“...the myths that surround the instability of Indian Tribes, a lot of times, this is not really true....the Pueblos have what we call ‘councils.’ Once you’re a member of the council, you’re a member of the council for life....they are very up to date on many things that are going on.”

—Bill Weahkee, Five Sandoval Indian Pueblos

“I think one of the biggest things is that we don’t tax ourselves...It’s a Tribal thing for us; you get money from resources, you use the money for everybody...So there’s no money for doing anything, infrastructure and stuff like that.”

—Bill Weahkee, Five Sandoval Indian Pueblos

“I’m kind of seeing this as the meeting of the minds. I really don’t think that there is a right answer and a wrong answer to all of these issues that are coming together; it’s coming together in knowing how we each think and communicate.”

—John Lucero, First National Bank

“The IRS recognizes tax exempt status, but the Securities and Exchange Commission does not exempt from registration. So that is a very big hindrance when you’re trying to do small business economic development on the Tribal trust lands.”

—John Lucero, First National Bank



“Right now, if we’re dealing with several Pueblos, we have different leasehold agreements, different mortgage agreements. If we could simplify that and just have one, it would make it easier for us to do business.”

— John Lucero, First National Bank

“... reduce the paperwork. A lot of times now to get mortgages, you will fill out the same form for the different agencies, but the other agencies won’t accept the form from the other one, and basically, you’re filling out the same paperwork 14 times.”

—Phyllis Crawford, Navajo Mine Federal Credit Union

“One of the main barriers is Tribal sovereignty and sovereign immunity. Again, the private sector does not understand, nor do they particularly like that aspect of it and would like to change that. Well, what are some of the impacts? It limits resources, limits investors, and no lending takes place on the Indian Reservation.”

—Jonathan Quintana, Native Southwest Development

“...the instability of Tribal governments. New officers may come in and say, ‘I don’t care what you signed with so and so back there; this is who we are today, and we’re not doing it.’ ... You have changing rules.”

—Jonathan Quintana, Native Southwest Development

“We, as Native Americans, are saying, ... ‘The programs are too rigid. ... They’re wanting too many hoops to jump through.’ And on the other side of the spectrum, the bankers are saying, ... ‘There’s too many hoops to jump through to be able to get things accomplished.’ ”

—Jonathan Quintana, Native Southwest Development

“...we went with the Tribal sovereignty issue. That’s a very contentious issue. Both sides are going to have their feet firmly planted on the ground on that, and it’s going to be the most difficult because it’s a legal issue. Even if you have a great solution on economic issues, if you decide, yes, there’s a good reason for this loan, the money will be used well, then you say, okay, now we turn it over to the attorneys, and the deal is dead because they can’t resolve the legal issues.”

—Paul Gibson, Merrill Lynch

“..develop alternative institutions to meet Indian needs....a lending program and other non-profits, perhaps housing associations and gap-filling organizations that have more flexibility than banks that could help create the environment that’s needed for the banks to move in later.”

—Derek Haskew, DNA People’s Legal Services

“...keep up the pressure to have banks go into Indian areas. ... Bank of America has invested in inner-city communities, under pressure,...and have realized that in fact, there are profit-making opportunities in inner cities. And we expect the same thing could be found in Indian communities.”

—Derek Haskew, DNA People’s Legal Services



“Let’s empower the Tribal governments....let the Tribal governments make their own mistakes. If they want to put up a leasehold interest as collateral and it gets taken back, well they have to live with the decision. The Department of Interior, in their trust responsibility...they’re basically protecting the Tribes and Pueblos from themselves. I don’t know if that really needs to be done.”

—Pierre Dotson, Navajo Agricultural Products

“...we think the Tribal groups need to do a needs assessment....What ends up happening is in Washington we’re sitting in a room; we decide that, you know, Indian country needs these programs. And I don’t know that anyone has ever gone to Indian Country and asked, ‘What is it that you need?’ We get these programs and try to kick them down their throat, and that may not be necessary.”

—Edward Cadena, Small Business Administration

“For the past two days, we’ve worked side by side to establish communication between two worlds....We accomplished trust, that firm reliance on the honesty, dependability, strength, or character of someone or something. We have bridged the 10 percent mentality over a river that flowed with past troubles.”

—Darrell Felipe, All Indian Pueblo Council

“So as our little feast day comes to a close, remember to be true to your commitments. And thank you for inviting us to your dinner table.”

—Darrell Felipe, All Indian Pueblo Council



OVERVIEW

Immediately after introductory remarks and presentation of workshop guidelines, participants were organized into teams, with each team representing a proportionate mix of stakeholder types who attended the workshop. Teams identified as many barriers and their related impacts as they could so as to provide an understanding of the issues that drive needed changes.

BARRIERS AND IMPACTS BY TEAMS

1 TEAM

BARRIERS	IMPACTS
1. Lack of information in the Tribal community about available financial services. Indians do not grow up with lending (mortgage, car payment)	<ul style="list-style-type: none"> • Financial providers are distrusted • Infrastructure doesn't get financed and built • Lots of needed projects <u>STALL</u> • Individuals pay excessive rates
2. Financial providers lack information about Tribes' financial needs	<ul style="list-style-type: none"> • Financial providers miss opportunities
3. Perceptions/myths	
4. Sovereign Immunity: financial providers' biggest barrier (big myth component)	<ul style="list-style-type: none"> • Lack of willing investors/lenders • Erodes Tribal systems
5. Distrust on both sides	<ul style="list-style-type: none"> • Creates more distrust
6. Lack of uniformity from Tribe to Tribe to Pueblo, e.g., uniform commercial codes, Tribal courts, governing entities, lease codes/forms; cultural differences (profit vs. communal interests)	<ul style="list-style-type: none"> • Cost of doing business is high; prohibitive legal fees • Time requirements also push this issue down the priority list • Borrowers get tired of waiting and buy mobile homes
7. Turnover in leadership at Tribal level, changing priority of projects (contrast with local government changes, law stays same, e.g., UCC)	<ul style="list-style-type: none"> • Reverse contract decisions • Increases mistrust



BARRIERS	IMPACTS
8. I.R.S. recognizes Tribes' tax exempt status but the SEC does not exempt them from registration – no other local entity registers	<ul style="list-style-type: none"> • Inhibits small business economic development • Limits bonding/market <ul style="list-style-type: none"> - Minimum \$100,000 investor - No Tribal members - Small organization
9. BIA/HUD Guarantee Programs: <ol style="list-style-type: none"> Take too long (title searches) Do not know what they are doing (can't record a mortgage, don't know when they have to approve or not, signatory authority) Nobody takes responsibility; lack of coordination between BIA & HUD BIA is bigger impediment 	<ul style="list-style-type: none"> • Inefficiency • Government lending programs are not fully utilized • Nothing gets done • Lenders get discouraged and focus on more efficient loans • Borrowers also get discouraged • Lenders do minimum to satisfy regulators
10. In business world timing is important; work in Indian Country takes too long, on all fronts	
11. Financial providers have a long learning curve on certain loan programs	
12. HUD 184 limits: No new construction (Story: 25-35 HUD 184 loans in Dakota but on fee lands so no red tape with BIA, trust)	<ul style="list-style-type: none"> • Rehab is left out
13. The rural location of Tribes	<ul style="list-style-type: none"> • Cost of infrastructure is high
14. No experience on loans (184); don't know if default procedures work	
15. BIA restrictions on lease approval process	<ul style="list-style-type: none"> • Restricts growth of Tribe

“... most people just flat don't understand how Tribal governments are set up. . . A lot of times, they look at it as 'no-mans-land'. . . The impact of that is that there's a great fear of investment.”
–Richard Kontz, Navajo Partnership for Housing



BARRIERS	IMPACTS
16. BIA encourages default on guaranteed loans. “It is only government money”. The BIA doesn’t think like a business	<ul style="list-style-type: none"> • Workouts are rejected • Harms credit rating of Tribe
17. Bad advice to Tribal members from legal aid that doesn’t emphasize working out credit problems but instead focuses on legal outs	<ul style="list-style-type: none"> • Car lenders move to repossession sooner • Credit is hurt
18. BIA Small Business Loan Guarantee Program a. Process time is too long b. Program is under-funded	<ul style="list-style-type: none"> • Banks do not use program • Needs don’t get met
19. Conflicting Federal requirements in different agencies, e.g., SEC registration (initiative driven, not process)	<ul style="list-style-type: none"> • Programs do not work as intended
20. Not enough capital around	<ul style="list-style-type: none"> • Indian Country is starved for capital
21. General under-funding of Federal programs	
22. Access to non-Indian programs are a hassle: - Programs are paper heavy - Intermediaries	<ul style="list-style-type: none"> • Banks don’t want to make deals



2 TEAM

BARRIERS	IMPACTS	<i>“I’m kind of seeing this as the meeting of the minds. I really don’t think that there is a right answer and a wrong answer to all of these issues that are coming together; it’s coming together in knowing how we each think and communicate.” –John Lucero, First National Bank</i>
1. Tribal Sovereignty and Sovereign Immunity	<ul style="list-style-type: none"> Limits resources for investors to protect their interest No lending takes place on the Reservation 	
2. Time Delays	<ul style="list-style-type: none"> Increases uncertainty for the lender Increases transaction costs Lowers the profit margin for the lender Private sector doesn’t want to give loans on the Reservation 	
3. Instability of Tribal governments	<ul style="list-style-type: none"> The rules and players change with changing administrations No continuity 	
4. Preconceived negative notions or perceptions by Native Americans and by banking institutions	<ul style="list-style-type: none"> A reluctance to do business 	
5. Cultural differences	<ul style="list-style-type: none"> Protocols and priorities need to be defined Time is wasted 	
6. Lack of understanding by banks and the private sector of Tribal process		
7. Excessive guarantees and collateralization needed by the private sector in case of a loan default	<ul style="list-style-type: none"> Increases or enhances the level of distrust by Tribal members Limits Tribes’ ability to leverage assets and access capital for future projects 	
8. Bankers want to see a waiver of sovereign immunity		
9. No equity in homes	<ul style="list-style-type: none"> Inability to leverage lands as equity Lack of capital to start small businesses 	



BARRIERS	IMPACTS
10. The regulatory environment and banks (OCC, FRB, FDIC, OTS) have supervisors that don't understand the complex Tribal issues	<ul style="list-style-type: none"> • Underwriting requirements • Limits flexibility to develop products • Regulatory collateralization requirements
11. Lack of collateral on trust lands	<ul style="list-style-type: none"> • Can't meet bank requirements • No recourse for lenders
12. Lack of UCC codes and building codes	<ul style="list-style-type: none"> • No recourse for lenders
13. Distrust on both sides between Tribal members and private sector and Tribal governments	<ul style="list-style-type: none"> • Adversarial relationships adversely impact all parties' ability to accomplish goals
14. Guaranty programs too rigid; regulatory environment too restrictive, no flexibility	<ul style="list-style-type: none"> • People don't know how or like to use the programs • There's a lack of funding • Puts a ceiling on amount of business
15. Lack of resources and infrastructure on the Reservation	
16. Antagonistic/adversarial environment	



Team break-out session

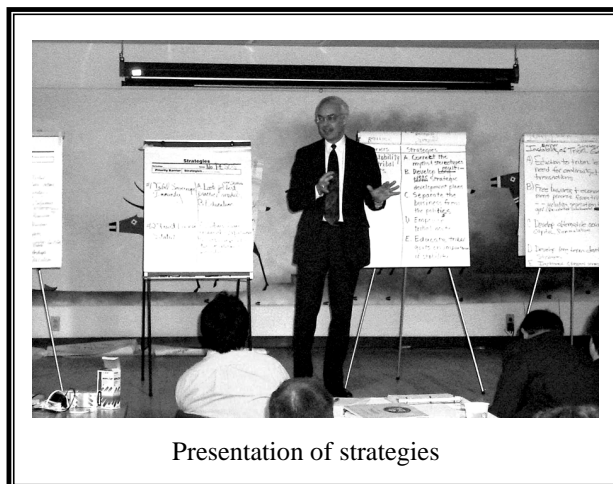




BARRIERS	IMPACTS	
1. Lack of trust between Indian nations and the Federal government, lack of communication and a history of broken promises	<ul style="list-style-type: none"> • Nothing happens • No lending • The initial contact is never made • No economic development 	<p><i>“For the next two days we’ll get a chance to undo what was never done; we’ll begin what was never started; and we’ll rectify what should never have been broken, which is trust.”</i></p> <p><i>–Darrell Felipe, All Indian Pueblo Council</i></p>
2. Lack of traditional things that are used as collateral	<ul style="list-style-type: none"> • No lending or economic development 	
3. Lack of understanding of sovereignty issues by the Federal government and the Tribe	<ul style="list-style-type: none"> • Inactivity • Fear • Confusion 	
4. Misperception of need in Indian Country because of casinos and oil revenues that “all Indians are rich”	<ul style="list-style-type: none"> • Higher standards required by Federal agencies in order to qualify for programs • Problems getting past the misperceptions 	
5. Lack of financial tools, such as deeds of trust, mortgages, and security instruments, in Indian Country	<ul style="list-style-type: none"> • No lending • Confusion • Existing tools may not be appropriate for a particular Reservation or nation. 	
6. Indian population is a small market	<ul style="list-style-type: none"> • Investors reluctant to enter market • Not seen as profitable • No sincere effort made by investors 	
7. Lack of communication and consultation from the Federal government to the Tribal nations	<ul style="list-style-type: none"> • Poor projects and programs • Federal resources don’t meet the needs of the communities 	
8. Federal government turnover (staff, policies, policy makers)	<ul style="list-style-type: none"> • Lack of continuity • Shift in priorities 	
9. Tribal government turnover	<ul style="list-style-type: none"> • Loss of history and knowledge of the efforts that had already begun • Lack of continuity 	



BARRIERS	IMPACTS
10. If there is an effective Tribal court system, it is not recognized as an established system, and in some Tribes an independent judiciary system or Tribal court system does not exist	<ul style="list-style-type: none"> • High transaction costs
11. Bank consolidations	<ul style="list-style-type: none"> • Lack an understanding of local issues • Department/unit dealing with Indian issues is eliminated through consolidation • Discourages banking relationships
12. Federally required government to government protocol and relationships with Tribal governments	<ul style="list-style-type: none"> • Lack of communication with individual Tribal members about private sector initiatives • The information does not reach the people who need to hear it
13. Lack of Indian capital and capacity	<ul style="list-style-type: none"> • No economic development • Difficult to get capital
14. Weak legal infrastructure	<ul style="list-style-type: none"> • Much higher transaction costs • Lack of confidence in doing business in Indian Country • No enforcement of commercial codes, housing codes, etc., that are necessary to promote and support the private sector

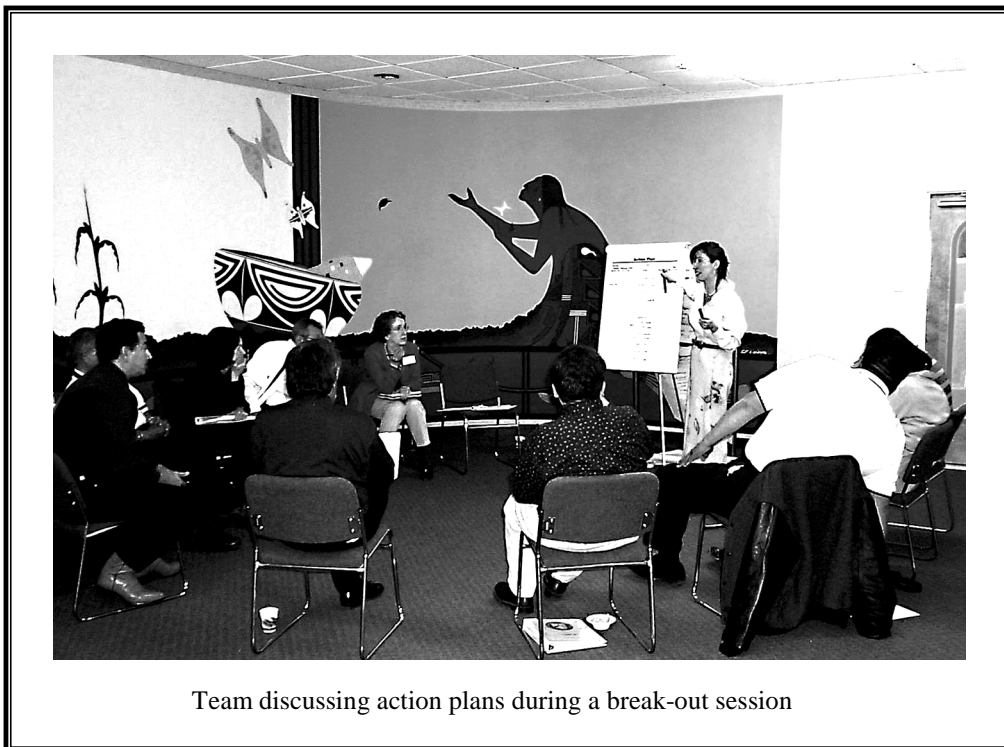


BARRIERS	IMPACTS	
1. Lack of stability in Tribal government, mainly the elected leadership	<ul style="list-style-type: none"> • Lack of continuity for support of projects from one administration to the next • Missed opportunities • Reluctance of private sector to deal with Tribes 	<p><i>“I think one of the biggest things is that we don’t tax ourselves. . .It’s a Tribal thing for us; you get money from resources, you use the money for everybody. . .so there’s no money for doing anything, infrastructure and stuff like that.”</i> <i>–Bill Weahkee, Five Sandoval Indian Pueblos</i></p>
2. Lack of an effective judicial system	<ul style="list-style-type: none"> • No logical set of laws rules, regulations or court procedures • Causes confusion for lenders regarding repossession, enforcement of collateral provisions, etc. 	
3. No enforcement code	<ul style="list-style-type: none"> • UCC codes, building codes, or construction inspections are not enforced. 	
4. Lack of understanding and misperceptions by non-Indians of Tribal government and courts	<ul style="list-style-type: none"> • Fear of investment from private sector • High cost of recourse to hire Indian attorneys who can practice in Tribal courts 	
5. Lack of standard Tribal commercial codes	<ul style="list-style-type: none"> • Lack of investment • Lack of development • Lenders don’t know the “rules of the game” 	
6. Fear of loss by lenders; they don’t know what they’re getting into	<ul style="list-style-type: none"> • No investment • No economic development 	
7. The different cultural attitudes toward economic development are not equal to profit; Indians have other motives for pursuing development; they are communal oriented, not as concerned with individual wealth	<ul style="list-style-type: none"> • Programs don’t fit with Tribal values • Investors don’t get to see a higher rate of return and go elsewhere to invest their money 	

BARRIERS	IMPACTS
8. Lack of understanding by Native Americans of the financial culture: banks, businesses, process, terms, and sense of time	<ul style="list-style-type: none"> • Native Americans are not able to or not prepared to access capital • Missed window of opportunity because of length of time in making Tribal decisions • Higher number of loan defaults
9. Tribes don't use their local human resources in the decision making process (i.e., business entrepreneurs, educated youth)	<ul style="list-style-type: none"> • Limited communication between older decision makers and youth who are more prone to understand the financial culture • Lack of avenues for young people to participate in decision making
10. Lack of land for development due to Tribal regulations that impede development, culture and the land trust status	<ul style="list-style-type: none"> • No prime sites for use and development
11. The Federal government, including the BIA, is paternalistic, colonial, and bureaucratic	<ul style="list-style-type: none"> • Too much red tape • No confidence in Federal government • No flexibility • No follow-up
12. Inconsistent forms and regulations from USDA, HUD, EDA, BIA	<ul style="list-style-type: none"> • No collaboration between programs • Increases difficulty in accessing capital • High cost and time consuming for Native consumer to work with several agencies to develop business and housing
13. No tax base; outside of the Tribal concept	<ul style="list-style-type: none"> • No bond financing • Can't build physical infrastructure • Resistance to tax • No revenue for development
14. Dual taxation – taxed by Tribe, the State, and the Federal government	<ul style="list-style-type: none"> • Increases costs of operations and doing business on Reservation • Creates conflicts between states and Tribes



BARRIERS	IMPACTS
15. Lack of physical and institutional infrastructure, including other supports such as planning, zoning, codes, and law enforcement	
16. Urban Indian issues of discrimination	<ul style="list-style-type: none"> • High loan turn down • Tribes don't support off-Reservation population • No personal assets to justify private investment/ loans • Difficulty accessing capital from Tribe or any other sources
17. Fear and ignorance of Tribal sovereignty	<ul style="list-style-type: none"> • No investment
18. Multi-legal jurisdictions: Tribal, Federal, State, county	<ul style="list-style-type: none"> • Stuck between four attorneys





BARRIERS	IMPACTS	“...reduce the paperwork. A lot of times now to get mortgages, you will fill out the same form for the different agencies, but the other agencies won’t accept the form from the other one, and basically, you’re filling out the same paperwork 14 times.”
1. Lack of lender understanding of the trust status of land in Indian Country	<ul style="list-style-type: none"> No or few loans Higher percent of equity required, more money required Tribal members settle for lower standard of housing (i.e., mobile homes) 	
2. Inadequate appraisal standards in Indian Country	<ul style="list-style-type: none"> Lenders unwilling to learn 	
3. Getting a true assessment of the value of land in Indian Country	<ul style="list-style-type: none"> Slows lending process Inability to obtain desired amount of loan Equity seen as substandard 	
4. Lack of credit history of Indian borrowers	<ul style="list-style-type: none"> Fewer loans Indian borrowers pay higher rates Indian borrowers have to provide more collateral 	
5. Lack of lender understanding of Tribal laws and court systems	<ul style="list-style-type: none"> Tribal members submit themselves to State laws and jurisdiction that are contrary to Tribal laws 	
6. Tribal members in remote locations, undeveloped areas	<ul style="list-style-type: none"> No loans for families residing in remote areas Pay higher interest rates to borrow money 	
7. Trust status of land	<ul style="list-style-type: none"> Banks require additional loan guarantees Increases lending process time frames (creates bureaucratic process) Decreases the number of lenders willing to lend in Indian Country Some banks require Tribes to deposit their money into the bank before any transactions will proceed 	
8. Tribal land use approval processes don’t exist or are	<ul style="list-style-type: none"> Lack of development on Indian lands 	

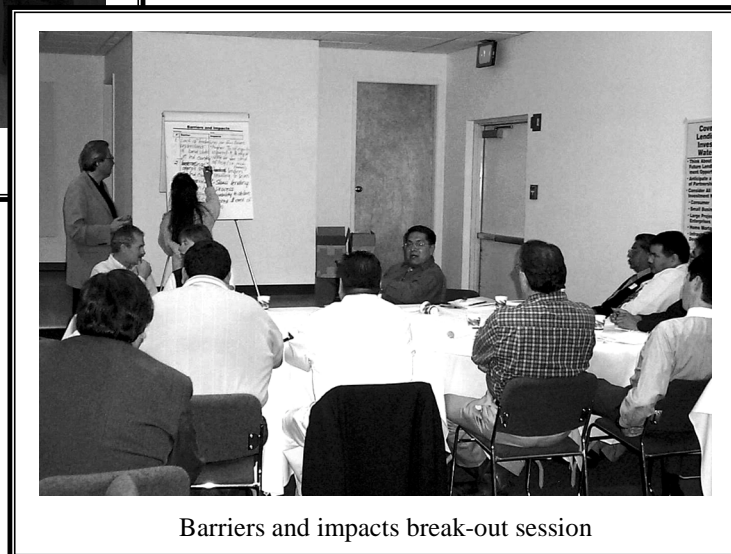
–Phyllis Crawford, Navajo Mine Federal Credit Union



BARRIERS	IMPACTS
too lengthy	<ul style="list-style-type: none"> • Lack of jobs • No increase in services
9. Instability of Tribal governments	<ul style="list-style-type: none"> • Lack of codes and enforcement of codes • Increases risk of doing business in Indian Country • Poor perception by lenders
10. Inadequate Tribal title processing	<ul style="list-style-type: none"> • Tribes rely on the BIA to record land interests which also delays the lending process
11. Lack of community based lenders	<ul style="list-style-type: none"> • Lack of lender advocacy
12. Lack of legal and financial processes in Indian Country	<ul style="list-style-type: none"> • Lowers the rate of lending in Indian Country • Each new business deal must be reinvented • Lack of recourse and legal processing



Team break-out session



Barriers and impacts break-out session



OVERVIEW

After identifying as many barriers as possible, teams were asked to establish a rank order of the top five barriers using a weighted rating system where each participant, basically, voted on the relative importance of the barriers. This section summarizes the rank order priorities of the barriers by team with number one being the most important and number five being the fifth in importance.

TOP FIVE PRIORITY BARRIERS BY TEAMS

	1 TEAM	2 TEAM	3 TEAM	4 TEAM	5 TEAM
ONE	Lack of Communication and Information Myths, perceptions, cultural differences	Cultural Differences	Legal Infrastructure	Tribal Sovereign Immunity	Tribal and BIA Regulations and Procedures for Development of Land Use
TWO	Sovereign Immunity Lack of understanding and use	Tribal Sovereignty	Lack of Trust and Communication Between Tribes and Governments	Trust Land Status	Lack of Legal and Financial Processes
THREE	Conflicting Federal Requirements and Agency Coordination	Legal and Regulatory Environment	Limited Financial Tools	Tribal Government Instability	Trust Status of Lands
FOUR	Distrust Between Tribes and Lenders	Trust Lands	Underwriting Constraints	Mutual Misunderstanding of Cultural Issues	Lack of Lender Understanding of Tribal Laws, Courts and Land Status
FIVE	Under-Funded Federal financing Programs	Instability of Tribal Governments Changing rules, changing players, no continuity	Limited Understanding of Sovereignty on Both Sides	Lack of Commercial Codes and Enforcement of Codes	Instability of Some Tribal Governments



OVERVIEW

For each of the top five priority barriers listed in the previous section, a summary of their impacts is listed. These impacts assist in understanding the effects of the barriers that need to be overcome in identifying solutions and strategies for change.



PRIORITY BARRIERS AND THEIR IMPACTS

	BARRIERS	IMPACTS
1	Lack of Communication and Information	<ul style="list-style-type: none"> • Financial providers are distrusted • Infrastructure doesn't get built (financed) • Lots of needed projects <u>STALL</u> • Individuals pay excessive rates • Misunderstandings of cultural differences
2	Sovereign Immunity	<ul style="list-style-type: none"> • Limits willing investors/lenders • Erodes Tribal systems
3	Conflicting Federal Requirements and Agency Coordination	<ul style="list-style-type: none"> • Programs do not work as intended • Inefficiency • Nothing gets done • Lenders get discouraged and focus on more efficient loans • Borrowers get discouraged • Tribes are not recognized as units of government
4	Distrust Between Tribes and Lenders	<ul style="list-style-type: none"> • Creates more distrust
5	Under-Funded Federal Financing Programs	<ul style="list-style-type: none"> • Indian Country is starved for capital





	BARRIERS	IMPACTS
1	Cultural Differences	<ul style="list-style-type: none"> • Reluctance to do business • Protocols and priorities need to be defined • Time is wasted • Adversely impacts all parties' ability to accomplish goals • No communication
2	Tribal Sovereignty	<ul style="list-style-type: none"> • Limits resource by investors to protect their interest
3	Legal and Regulatory Environment	<ul style="list-style-type: none"> • Underwriting requirements • Limits flexibility to develop products • Regulatory collateralization requirements • Can't meet bank requirements
4	Trust Lands	<ul style="list-style-type: none"> • Inability to leverage lands as equity • Lack of capital to start small businesses
5	Instability of Tribal Governments	<ul style="list-style-type: none"> • Reluctance to do business with Tribes • Difficult to make long term business commitments and follow through with those commitments





	BARRIERS	IMPACTS
1	Legal Infrastructure	<ul style="list-style-type: none"> • Loss of history/knowledge • High transaction costs • Lack of recognition of established system • Lack of independent judiciary system • Lack of confidence
2	Lack of Trust and Communication Between Tribes and Governments	<ul style="list-style-type: none"> • Nothing happens • No lending • Lack of communication • Broken promises
3	Limited Financial Tools	<ul style="list-style-type: none"> • No lending • Confusion
4	Underwriting Constraints	<ul style="list-style-type: none"> • No economic development • BIA is very slow at appraising leasehold land
5	Limited Understanding of Sovereignty on Both Sides	<ul style="list-style-type: none"> • Inactivity • Fear • Confusion



4 TEAM

	BARRIERS	IMPACTS
1	Tribal Sovereign Immunity	<ul style="list-style-type: none"> No investment
2	Trust Land Status	<ul style="list-style-type: none"> No prime sites for use and development
3	Tribal Government Instability	<ul style="list-style-type: none"> Lack of continuity for support of projects Missed opportunities Reluctance of private sector to deal with Tribes Priorities change as administrations change
4	Mutual Misunderstanding of Cultural Issues	<ul style="list-style-type: none"> Fear of investment from private sector The cost of recourse is high Programs don't fit with Tribal values Investors don't get or see higher rate of return and go elsewhere with investment dollars Some Native Americans are not able to or not prepared to access capital Missed window of opportunity due to length of time in making Tribal decisions Higher number of loan defaults
5	Lack of Commercial Codes and Enforcement of Codes	<ul style="list-style-type: none"> Lack of investment





	BARRIERS	IMPACTS
1	Tribal and BIA Regulations and Procedures for Development of Land Use	<ul style="list-style-type: none"> • Lack of development on Indian lands • Lack of jobs • No increase in services • Reliance on the BIA to record land interests which increases the length of time of the lending process
2	Lack of Legal and Financial Processes	<ul style="list-style-type: none"> • Low rate of lending in Indian Country • Each new business deal must be reinvented • Indian borrowers pay higher rates • Indian borrowers have to provide more collateral • Banks require Tribal deposits
3	Trust Status of Lands	<ul style="list-style-type: none"> • Banks require loan guarantee • Increases lending process time frames (creates bureaucratic process) • Decreases number of lenders willing to lend in Indian Country
4	Lack of Lender Understanding of Tribal Laws, Courts and Land Status	<ul style="list-style-type: none"> • No or few loans in Indian Country • Higher percent of equity required, more money required • Tribal members settle for lower standard of housing (i.e., mobile homes) • Tribal members submit themselves to State laws and jurisdiction which are contrary to Tribal laws
5	Instability of Some Tribal Governments	<ul style="list-style-type: none"> • Lack of codes and enforcement of codes • Increases risk of doing business in Indian Country • Poor perception by lenders



OVERVIEW

After prioritizing barriers and identifying the top five priority barrier impacts, the teams conducted two follow-up break-out sessions. The first session focused on identifying a range of strategies for each of the top five priority barriers. Each team then presented their strategies to the entire group and plenary session. The teams then returned to their break-outs and identified action plans, including responsibilities and time frames, for selected strategies. Please note that there may not be an action plan for every strategy since teams decided which are the most critical strategies that require action. Please refer to Definitions of Terms in the introduction for an explanation of responsibilities and time frames.

TEAM 1 STRATEGIES AND ACTIONS

BARRIER #1: LACK OF COMMUNICATION AND INFORMATION

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Develop Tribal handbooks on laws, customs, business opportunities/license requirements	1. Fund the creation of Tribally driven Regional Resource Centers – independent, permanent, module based to serve all shareholders, FSPs, Tribal leadership.	U.S. Congress Intertribal Org. Federal Agency State Entity Fed. Reg. Agency (FDIC, OCC, OTS, FRB) Other (Tribal colleges, state universities and community colleges)	Medium Term
B. Tribally driven conferences by individual Tribes or intertribal organizations to share values and beliefs as well as technical info	2. Offer education, orientation training, materials and web sites		
	3. Provide information about: <ul style="list-style-type: none"> • Appropriate and sustainable development of the Tribal Council • Tribal governance structure(individualized) • Sovereign immunity options • Financing options • Cultural values 		
C. Site visits to Reservation by financial providers			



STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
D. Create a very high level exchange program between Tribes, lenders/investors, and government entities			
E. Provide training, workshops, and continuing education	<ol style="list-style-type: none"> 1. Fund the creation of Tribally driven Regional Resource Centers – independent, permanent, module based to serve all shareholders, FSPs, and Tribal leadership. 2. Offer education, orientation training, materials and web sites 3. Provide information about: <ul style="list-style-type: none"> •Appropriate and sustainable development of the Tribal Council •Tribal governance structure (individualized) •Sovereign immunity options •Financing options •Cultural values 	U.S. Congress Intertribal Org. Federal Agency State Entity Fed. Reg. Agency Other (Tribal colleges, state universities and community colleges)	Medium Term
F. Create regional, single Tribe, and topic web sites			
G. Direct briefing to lenders by Tribes (Norwest model)	<ol style="list-style-type: none"> 1. Fund the creation of Tribally driven Regional Resource Centers – independent, permanent, module based to serve all shareholders, financial service providers (FSPs), and Tribal leadership. 	U.S. Congress Intertribal Org. Federal Agency State Entity Fed. Reg. Agency Other (Tribal colleges, state universities and community colleges)	Medium Term
H. Research and share information			



STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
	2. Offer education, orientation training, materials and web sites 3. Provide information about: <ul style="list-style-type: none"> • Appropriate and sustainable development of the Tribal Council • Tribal governance structure (individualized) • Sovereign immunity options • Financing options • Cultural values 	U.S. Congress Intertribal Org. Federal Agency State Entity Fed. Reg. Agency Other (Tribal colleges, state universities and community colleges)	
I. Native American internships/fellowships on government and private financing; Native American owned institutions	Develop financial fellowships and internships for Native Americans to go into either financial institutions, Treasury, FDIC, etc.		
J. Increase Native American representation at financial service providers' offices	1. Build on New Mexico Bankers Program granting scholarships and hiring students in the summer by extending to Native Americans 2. Expand Haskell University program of entrepreneurship 3. Co-op program for Native Americans 4. Financial fellowship that exposes Native Americans to Fellows to high level policy makers at Federal government, regulators	Financial Inst. Other (Private sector financial service providers) U.S. Congress Other (local colleges) Other (academic institutions) Financial Inst. Fed. Reg. Agency Federal Agency Fed. Reg. Agency Federal Agency	



STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME	
	5. Get business schools to offer Indian Economic Development Policy program: a. Certificate program for students b. Short-term intensive course open to non-students	U.S. Congress State Entity Other (university)		
K. Start a mentorship program				
L. Increase cultural understanding and shareholder education	1. Fund the creation of Tribally driven Regional Resource Centers - independent, permanent, module based to serve all shareholders, FSPs, Tribal leadership 2. Offer education, orientation training, materials and web sites 3. Provide information about: <ul style="list-style-type: none"> • Appropriate and sustainable development of the Tribal Council • Tribal governance structure (individualized) • Sovereign immunity options • Financing options • Cultural values 	U.S. Congress Intertribal Org. Federal Agency State Entity Fed. Reg. Agency Other (Tribal colleges, state universities and community colleges)	Medium Term	
M. Financial providers should share knowledge and educate each other				N. Organizations should take lead in gathering and coordinating information
O. Provide early education on credit/financing coalition				Provide early education in Native American high schools and community colleges on basic credit financing



BARRIER #2: SOVEREIGN IMMUNITY

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Develop models for alternative dispute resolution mechanisms	Develop models of alternative dispute resolution mechanisms on the immunity issue	U.S. Congress Other (S.W. Indian Law Center, University of New Mexico)	Short Term
B. Translate or communicate what a waiver of sovereign immunity is and does to Tribes	<ol style="list-style-type: none"> 1. Fund the creation of Tribally driven Regional Resource Centers – independent, permanent, module based to serve all shareholders, FSPs, Tribal leadership. 2. Offer education, orientation training, materials and web sites 3. Provide information about: <ul style="list-style-type: none"> • Appropriate and sustainable development of the Tribal Council • Tribal governance structure-individualized • Sovereign immunity options • Financing options • Cultural values 	U.S. Congress Intertribal Org. Federal Agency State Entity Fed. Reg. Agency Other (Tribal colleges, UNM and community colleges)	Medium Term
C. Enlist a neutral organization to conduct training on sovereign immunity			
D. Define the distinction between sovereignty and sovereign immunity			



BARRIER #3: CONFLICTING FEDERAL REQUIREMENTS AND AGENCY COORDINATION

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Review the U.S. Code to determine where Tribes are not being treated as governments and amend it	Revise the U.S. Code for the “Uniform Tribes Are Governments” Act	U.S. Congress Intertribal Org.	Medium Term
B. Amend SEC to recognize Tribes as exempt from registration			
C. Harmonize underwriting processes, and documentation, requirements, etc.	Presidential initiative to harmonize agency regulations	U.S. President U.S. Congress Federal Agency	Short Term
D. Allow satisfaction or waiver of requirements if already complied with for another (one form for all programs)			



BARRIER #4: DISTRUST BETWEEN TRIBES AND LENDERS

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Develop Tribal handbooks on laws, customs, business opportunities and license requirements			
B. Create and share positive experiences and stories			
C. “Toot Your Own Horn” Strategy: create awards for good work and good stories for different categories such as, “for the Best Federal Program”	<ol style="list-style-type: none"> 1. AIPC Award Banquet 2. Newsletter Best Practices 3. Get foundation to create an award that comes with cash 	Intertribal Org. (AIPC) Federal Agency Other (Ford-McArthur Foundation)	



BARRIER #5: UNDER-FUNDED FEDERAL FINANCING PROGRAMS

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Use the media			
B. Identify opportunities where additional funding would increase access			
C. Lobby and educate decision makers			
D. Identify how much money is needed	<ol style="list-style-type: none"> 1. Capital 2. Perform a Needs Assessment to target needs 3. Tribes respond to the assessment 	Federal Agency Intertribal Org.	Short Term
E. Get good stories and horror stories to key people			
F. Get money needed highlighted in this CDFI Fund study			
G. Create statutory and regulatory incentives to encourage private financing	Put some teeth into CRA; regulators need to stop inflating CRA ratings: <ul style="list-style-type: none"> • Statutory penalties for non-compliance • Cause of action 	Fed. Reg. Agency	Medium Term



BARRIER #1: CULTURAL DIFFERENCES

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Educate the stakeholders, the banks, Tribes and regulators, about each others cultures			
B. Hire a diverse workforce across all stakeholders and levels through internships, training and direct placement			
C. Recommend Tribes develop materials on who, where, what, when and how to arrange for furthering economic development opportunities, including labor laws, tax rates, the regulatory environment, etc.	Develop a guidebook defining the decision process for doing business and financial transactions with the Tribe	Tribal Entity Federal Agency BIA	Medium Term

BARRIER #2: TRIBAL SOVEREIGNTY

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Provide education to clarify and define difference between Tribal sovereignty and limited waivers		Tribal Entity	
B. Define transactions requiring waivers of sovereign immunity	Define transactions requiring waivers of sovereign immunity and define how limited waivers of sovereign immunity are obtained	Tribal Entity Financial Inst.	Medium Term



STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
C. Financial regulatory agencies to develop regulations allowing banks to work with sovereign Indian nations, residents and organizations in Indian Country	Streamline the regulations so that everyone can understand	Federal Agencies Financial Inst.	
D. Create U.S. institutional incentives for lending to sovereign nations and Reservations/organizations			

BARRIER #3: LEGAL AND REGULATORY ENVIRONMENT

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Have all stakeholders assess involvement and obligations for change in those areas responsible	Figure out how to streamline the process	Tribal Entity Financial Inst. Federal Agency	
B. Coordinate agency actions, regulations and archeology/ environmental, etc. (standardize forms)	<ol style="list-style-type: none"> 1. Coordinate Federal agency activities and regulations resulting in greater effectiveness and efficiency (reduced time and paperwork used by financial institutions, Tribes on projects) 2. Standardize cross-agency forms 	Federal Agency U.S. Congress U.S. President State Entity	Medium Term



STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
C. Reduce the duplicate paperwork for guarantees, loans, etc., that are required by regulators, Federal agencies, and Tribes, (i.e., Navajo SAS process)			
D. Authorize inter-agency review and approvals to arrange by common functions			

BARRIER #4: TRUST LANDS

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Agencies develop a leasing system that allows for financing, refinancing and sale of improvements that are put on lease lands	1. Develop and modify legal infrastructure to facilitate the development and equity of a leasing system allowing for financing, refinancing and sale of improvements	Tribal entity Federal Agency (BIA, HUD)	Medium Term
B. Develop a process parallel to the outside real estate market activities for commercial and residential transactions for time efficiency	2. Develop real estate process for implementation of programs 3. Develop “operating procedures, desk instructions,” to get the money out and stimulate economic development within Indian Country		



BARRIER #5: INSTABILITY OF TRIBAL GOVERNMENTS

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Educate Tribal leaders about the need for continuity in business transactions			
B. Separate business and economic development processes from Tribal politics and from Tribal government	Privatize and empower economic development (free from direct Tribal politics), including existing entrepreneurs, nonprofit organizations and private entities	Tribal Entity Federal Agency	Short to Medium Term
C. Develop alternative sources of capital			
D. Develop a long-term development strategy			
E. Implement staggered terms of office for elected officials	Implement staggered terms and extend where necessary for elected Tribal officials to ensure experienced people are on the council	Tribal Entity	Short Term



BARRIER #2: LACK OF TRUST AND COMMUNICATION BETWEEN TRIBES AND GOVERNMENTS

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Build trust by providing the results of the workshop to the various Tribes		CDFI	
B. Tribes have to learn how the private sector works	Tribes can be more responsive to the needs of the private sector		
C. Federal government could provide “incentives” to encourage the private sector to participate in Tribal economy	<ol style="list-style-type: none"> 1. Increase tax incentives, both general and Indian specific 2. Re-authorize existing credits 3. Market credit so there’s greater knowledge of the credit available 	Federal Agency	Short Term
D. Maintain the pressure to have banks go into Indian Country	<ol style="list-style-type: none"> 1. Extra CRA credit for “hard to service” areas that are outside assessment areas 2. Maintain fair lending enforcement in Indian Country 	<p>Federal Agency</p> <p>Federal Agency</p>	<p>Short Term</p> <p>Short to Long Term</p>



BARRIER #3: LIMITED FINANCIAL TOOLS

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Maintain pressure and incentives for lenders and secondary markets to develop appropriate products for Indian Country			
B. Develop alternative institutions to meet Indian needs (i.e., CDFI) with Feds, non-profit, private and Tribal dollars	Create national Indian development intermediary with Federal dollars to secure matching funds (Indian's majority or board)	Tribal Entity Federal Agency Other (corporations, foundations)	Short to Medium
C. Federal government to develop "gap filling" programs, also put some money into the pilot programs			
D. Tribes need to be players and partners with financial institutions	Educate Tribes about what they can do to better attract lending and create opportunity		



BARRIER #4: UNDERWRITING CONSTRAINTS

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Develop alternative appraisal or valuation mechanisms for leasehold land			
B. Tribe to provide loan guarantees for Tribal members if they can't make payments			
C. Develop "Tribal appropriate" scoring systems for loan approval or disapproval that considers the unique factors in Indian Country (especially, points for home ownership)			
D. Use an intermediary between borrowers and traditional lenders	<ol style="list-style-type: none"> 1. Use a range of different intermediaries for specific needs, e.g., housing, business, short/long term 2. Increase support with short and long term loans and grants 	Tribal Entity Federal Agency Other (corporations, foundations)	
E. Encourage Tribal members to build up capital in savings			
F. Look into restoring the 75/25 program that was run by the BIA and closed down			



BARRIER #5: LIMITED UNDERSTANDING OF SOVEREIGNTY ON BOTH SIDES

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Congress to clarify state of Tribal sovereignty law without eroding it			
B. Educate Federal officers and the private sector about sovereignty			
C. Create new institutional structures that insulate Tribal business activities from sovereignty issues			
D. Tribal market to explore new or alternative governmental forms that enhance sovereignty	Educate Tribal leaders about the alternatives	Federal Other (corporations, lenders, foundations)	Short to Long Term



BARRIER #1: TRIBAL SOVEREIGN IMMUNITY

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Look for and share best practice models (i.e., language clauses that have been use successfully across the country)	Research best practices and models. The information exists but needs to be pulled together	Tribal Entity Intertribal Org. Financial Inst. Federal Agency Fed. Reg. Agency	Short Term
B. Educate the commercial side and the Tribal side for a better understanding of Tribal sovereignty vs. Tribal immunity			

BARRIER #2: TRUST LAND STATUS

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Share legal research and experiences between Tribes and lending institutions	Share legal research and experience	Other (Bar Associations, universities)	Short Term
B. Look for alternative collateral or security arrangements that go around or work in tandem with the clauses that usually deal with the trust land issue			



BARRIER #3: TRIBAL GOVERNMENT INSTABILITY

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Create Federally chartered corporations for increased stability under the Indian Reservation Act (IRA)			
B. Develop comprehensive Tribal strategic plans, with community involvement, to lend stability to administrations	Develop and fund a technical assistance/grant program for development of a Tribal strategic plan	U.S. Congress Federal Agency	Medium Term
C. Stagger terms of elected council members			
D. Lengthen terms of elected officials so there aren't changes every year			

BARRIER #4: MUTUAL MISUNDERSTANDING OF CULTURAL ISSUES

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Educate each other about fundamental differences, recognize and accept those differences, and explore mechanisms to work within	Facilitate regional conferences and training	Intertribal Org. Federal Agency Financial Inst. Tribal Entity	Medium Term
B. Hold regional conferences and network			



STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
C. Have internship or exchange programs where people from banks and Tribes work at each others organizations			
D. Build and maintain relationships with financial institutions and Tribes to try to understand each others values			
E. Improve the distribution and quality of Federal and State resources and information			
F. Publicize success stories			

BARRIER #5: LACK OF COMMERCIAL CODES AND ENFORCEMENT OF CODES

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Identify best practices			
B. Share models			
C. Identify financial resources and procedures; support enforcement of those models where codes aren't being enforced	Identify financial resources and procedures to support the enforcement of commercial codes	Tribal Entity	Short to Medium Term



BARRIER #1: TRIBAL AND BIA REGULATIONS AND PROCEDURES FOR DEVELOPMENT OF LAND USE

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Review 25 CFR to simplify rules and regulations, update and make it easier for investors to understand, and easier for Tribes and the BIA to use	<ol style="list-style-type: none"> 1. Review specific sections of 25 CFR 2. Survey and compare existing Tribal economic needs 3. Develop a negotiated rule-making process 	Tribal Entity Intertribal Org. Fed. Reg. Agency Federal Agency Other	Short Term
B. Create title plans	<ol style="list-style-type: none"> 1. Contract Federal money through P.L. 93-638 2. Tribal support of Interior's current improvement efforts for trust funds reform 3. Develop Tribal title plans 	Tribal Entity Tribal Entity Intertribal Org. Tribal Entity Intertribal Org. Fed. Reg. Agency	Medium to Long Term Short Term Medium to Long Term
C. Review and update existing statutes	<ol style="list-style-type: none"> 1. Review specific sections of 25 CFR 2. Survey and compare existing Tribal economic needs 3. Develop a negotiated rule-making process 	Tribal Entity Intertribal Org. Fed. Reg. Agency Federal Agency U.S. Congress	Medium to Long Term



BARRIER #2: LACK OF ADEQUATE LEGAL AND FINANCIAL PROCESSES

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
<p>A. Develop uniform financial processes (road map for investors to follow)</p>	<p>1. Develop and adopt Tribal UCCs</p>	<p>Tribal Entity Intertribal Org. Financial Inst. Other (universities)</p>	<p>Medium Term</p>
	<p>2. Develop repossession laws</p>	<p>Tribal Entity Intertribal Org.</p>	<p>Short Term</p>
	<p>3. Develop standard forms for lending, et. al.</p>	<p>Tribal Entity Intertribal Org.</p>	<p>Short Term</p>
<p>B. Strengthen and validate the Tribal court systems so investors feel they are being treated fairly</p>	<p>1. Develop inter-governmental agreements to acknowledge and enforce full faith/credit and commitment</p>	<p>Tribal Entity State Entity</p>	<p>Short to Medium Term</p>
	<p>2. Train and educate Tribal judges in lending issues, etc.</p>	<p>Tribal Entity Intertribal Org. Fed. Reg. Agency</p>	<p>Short to Long Term</p>
<p>C. Develop alternative dispute forums</p>	<p>Give Tribes the opportunity to take their disputes outside the Tribal courts</p>		



BARRIER #3: TRUST STATUS OF LANDS

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Develop alternative methods of collateralization			
B. Make it easier to encumber lands			
C. Create a process for marketing foreclosed leaseholds so lenders can recoup some of their investment	1. Establish Tribal laws to market foreclosed leaseholds	Tribal Entity	Short to Medium Term
	2. Develop alternative methods of collateralization	Tribal Entity Financial Inst. Federal Agency Fed. Reg. Agency	Short Term
	3. Provide technical assistance	Financial Inst.	Short to Long Term

BARRIER #4: LACK OF LENDER UNDERSTANDING OF TRIBAL LAWS, COURTS AND LAND STATUS

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Create educational and marketing initiatives, keep the lines of communication open so the lender understands what the advantages are and the Tribes understand the needs of the lenders	1. Identify investment opportunities	Tribal Entity Financial Inst.	Short to Long Term
	2. Develop intern programs	Tribal Entity Financial Inst.	Short Term
	3. Establish a continuing process for communications	Tribal Entity Financial Inst. Federal Agency Fed. Reg. Agency	Short Term



BARRIER #5: INSTABILITY OF SOME TRIBAL GOVERNMENTS

STRATEGY	ACTION	RESPONSIBILITY	TIME FRAME
A. Correct the myths and stereotypes	Tribes initiate creation of technical advisory boards consisting of people from the business community, the State the Federal government, etc. to sit on this board	Tribal Entity Intertribal Org.	Short to Long Term
B. Develop multi-year strategic development plans	Develop, adopt and implement multi-year strategic plans to be reviewed on a continuous basis	Tribal Entity	Short Term
C. Separate business from Tribal politics	<ol style="list-style-type: none"> 1. Create more §17 corporations 2. Review Federal laws dealing with §17 to allow individual shareholders 	Tribal Entity	Short Term
D. Empower Tribal governments	Let the Tribal governments make their own mistakes instead of the DOI protecting them from themselves		
E. Educate Tribal governments on the importance of stability	Inform new administrations of the deals that have been made and they should stick with those deals		



OVERVIEW

OPEN FORUM

At the end of the workshop on the second day, the floor was open for participants' comments, issues or thoughts, for the record, on any related topic they felt had not been covered. The following are their comments.

"We have a quick list. Some of them are from Richard Kontz from NPH. First of all, we talked a lot about commercial codes, but not about consumer protection, for Tribes to enact consumer protection codes.

We touched a little bit, but not a lot, on credit history and credit problems and the creditworthiness of customers, and the issue there is improvement of the financial literacy for Tribal members -- that's not unique to Indian country; it's for all rural communities.

And also, the lack of private providers that serve Indian Country. That's the title insurance, insurance providers, appraisers, contractors, architects.

And then Richard's issues, archeological and environmental clearance issues. And also sources for those pre-development construction costs.

Infrastructure planning and funding for infrastructure planning.

And then, finally, the availability of technology in Indian Country, and making better use of technology. In DC, people always say, "We need to use technology better," but in Indian Country, there's no infrastructure for technology. Internet is sometimes hard to even access for the Tribes. Just wanted to throw that out there as big-picture items."

—Joanna Donohoe, HUD

"I think one of the things that we did not really press on, or even acknowledge very much, was the fact that the myths that surround the instability of Indian Tribes, a lot of times, this is not really true. In other words, Tribal governments are pretty stable. I can only really talk for the Pueblos, because the Pueblos have what we call 'councils.' Once you're a member of the council, you're a member of the council for life. So most of the meetings are attended by council members. As a result of that, they are very up to date on many things that are going on. They forget much more than we've ever learned, because they go through the whole process all their lives.

But we have those kinds of things. The talk is always, 'Did you promise' -- or 'Do we have someplace, in writing, that we made some kind of promise to a business to carry out their thing for the next or following years?'

And they'll say, 'Yes, we did.' So then it goes on. So there's a lot of things against this so-called -- myths about instability of Indian Tribes.

The other thing I want to mention, too, I think is very appropriate at this time. We worked on this a lot earlier, say within the last 10 or 12 years ago, that we were thinking without creating an American Indian national financial institution or a national Indian bank. One came up, but it



fizzled out, mostly because there is a lack of much understanding of the financial world and the financial businesses. And the Tribes were not really united in these concepts.

As you can see from the things that are going on now, we're just beginning to delve into the mechanics of the financial world, and their misunderstanding of us and our misunderstanding of them. Our philosophies are completely different. Most Indian Tribes are community-oriented; they look out for the whole community rather than an individual. And the banks are individual-oriented. In other words, the guy who gets out there and gets the most money, makes the most money, gets the most praise. But the Tribes say, 'No, we've got to make sure that everybody is taken care of or is watched out for.' So those things are very diametrically opposed to one another. So that kind of thinking has to prevail.

But the point is, an Indian financial institution is now, I think, a good thing to bring up, and I think that there are a lot of Tribes with a lot of money out there, so that it now becomes reality for Tribes to create their own banks, or for the Tribes to create one big national bank where we can do a lot of our own lending and borrowing from. I don't think that's far-fetched. We tried this. There are studies out there already on it. It's called American Indian Development Financial Institution.' It's there. We just have to dust the books off and find out what kind of problems we had at that time. But I think that's now come of age, so to speak. And my reason for making this statement was that Bob Johnson, from the New Mexico Economic Development Agency, here for the State of New Mexico, brought it up again and reminded me, 'Yeah, we had that before.' And I think we should be thinking of that."

—Bill Weahkee, Five Sandoval Indian Pueblos

"One of the things brought up in our group, toward the end, was the educational approach, educating the youth on what credit is, how to establish good credit, and how to save, and all that other good stuff that's just part of everyday financial knowledge. It's a foundation. What we are talking about today is things we can remedy in the next 5 to 10 years, but the youth is basically what the future is. And we've got to get them oriented to how the financial world works, and when they get a feeling for it, then they can incorporate it into their culture, also, and help us incorporate it. So I really do believe that that is one issue that we really have to look at for the future, in order to make it all work."

—John Lucero, First National Bank

"And I represent Indian housing authorities in New Mexico. If I look like I'm crying, I'm not. I think I lost my contact.

I have two comments, I wanted to expand on the comment made by the gentleman here with respect to Pueblo governments. He's correct with respect to the stability of Pueblo governments that operate under traditional forms of government. But it's not true for constitutional Tribes; for example, the Pueblo of Isleta, who changes its entire council every two years. So, if you are working with a constitutional Tribal government, you don't have that stability.

The second comment is with respect to leases and goes to standard documents, and we didn't really talk about that. I think one of the problems, at least my clients are facing, is, they want to do, for example, the Section 184 home loan program; then they also want to work with Fannie



Mae, but they have two different forms. So let's start having the different Federal agencies start talking with each other and let's start developing standard forms -- which I know has been in the works. It's just being able to bring all these players together to the table. And when you're involved in developing these forms, involve the Tribal governments and have their input.”

—Denise Chee, Chee Law Offices.



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