



TRIBAL NATIONS AND  
THE UNITED STATES

AN INTRODUCTION







The special relationship between Indians and the federal government is the result of solemn obligations that have been entered into by the United States government. Down through the years, through written treaties and formal and informal agreements, our government has made specific commitments to the Indian people. For their part, the Indians have often surrendered claims to vast tracts of land and have accepted life on government reservations. In exchange, the government has agreed to provide community services such as health, education and public safety—services that would presumably allow Indian communities to enjoy a standard of living comparable to that of other Americans. This goal, of course, has never been achieved. But the special relationship between the Indian tribes and the federal government that arises from these agreements continues to carry immense moral and legal force. To terminate this relationship would be no more appropriate than to terminate the citizenship rights of any other American.

**President Richard Nixon, Special Message to the Congress on Indian Affairs, July 8, 1970**

I am committed to furthering the self-determination of Indian communities, but without terminating the special relationship between the federal government and the Indian people. I am strongly opposed to termination. Self-determination means that you can decide the nature of your tribe's relationship with the federal government within the framework of the Self-Determination Act, which I signed in January of 1975.

**President Gerald Ford, President's Remarks to a Group of American Indian Leaders in the East Room, July 16, 1976**

This government-to-government relationship is the result of sovereign and independent tribal governments being incorporated into the fabric of our Nation, of Indian tribes becoming what our courts have come to refer to as quasi-sovereign domestic dependent nations. Over the years, the relationship has flourished, grown, and evolved into a vibrant partnership in which over 500 tribal governments stand shoulder-to-shoulder with the other governmental units that form our Republic.

**President George Herbert Walker Bush, Statement Reaffirming the Government-to-Government Relationship Between the Federal Government and Indian Tribal Governments, June, 14, 1991**

In every relationship between our people, our first principle must be to respect your right to remain who you are and to live the way you wish to live. And I believe the best way to do that is to acknowledge the unique government-to-government relationship we have enjoyed over time. Today, I reaffirm our commitment to self-determination for tribal governments. I pledge to fulfill the trust obligations of the federal government. I vow to honor and respect tribal sovereignty based upon our unique historic relationship. And I pledge to continue my efforts to protect your right to fully exercise your faith as you wish.

**President Bill Clinton, Remarks to Native American and Native Alaskan Tribal Leaders, April 29, 1994**

Today, we have choices before us—this nation, and the leaders of Indian tribes throughout this land, must shape our future course to ensure that Indian tribes and this nation as a whole will face a brighter course seven generations into the future.

**18th President of the National Congress of American Indians, Tex Hall (Mandan/Hidatsa/Arikara), State of Indian Nations Address, January 2003**

Strength, triumph over adversity, the will to succeed—the Indian Nations stand strong today. We are growing more self-sufficient, more economically developed, more politically active and, as always, steadfastly committed to the stewardship and defense of our home, the United States of America.

**19th President of the National Congress of American Indians, Joe Garcia (Ohkay Owingeh), State of Indian Nations Address, February 2006**

We know that ultimately this is not just a matter of legislation, not just a matter of policy. It's a matter of whether we're going to live up to our basic values. It's a matter of upholding an ideal that has always defined who we are as Americans: E pluribus unum—out of many, one. That's why we're here. That's what we're called to do. And I'm confident that if we keep up our efforts, that if we continue to work together, that we will live up to this simple motto and we will achieve a brighter future for the First Americans and for all Americans.

**President Barack Obama, Remarks at the White House Tribal Nations Conference, December 16, 2010**

We stand at the beginning of a new era for Indian Country and for tribal relations with the United States. Previous eras were defined by what the federal government chose to do: the Indian removal period when tribes were forcibly removed from their homelands to reservations, the reorganization and termination era, the allotment era, even the recent promise of the self-determination era. But this new era is defined by what we, as Indian Nations, choose to do for ourselves.

**20th and 22nd President of the National Congress of American Indians, Jefferson Keel (Chickasaw), State of Indian Nations Address, January 2011**

My fellow tribal leaders, we've learned that together, united, we are greater than the sum of our parts. My fellow government officials, we've learned that together, working beyond the boundaries of party and state, we can improve countless lives and generate shared prosperity. Together, we can build a strong partnership between all of our nations...one that will secure a brighter future for all our people. God bless our Indian Nations. God bless the United States of America.

**21st President of the National Congress of American Indians, Brian Cladoosby (Swinomish), State of Indian Nations Address, January 2014**





The Oklahoma State Capitol Tribal Flag plaza honors and recognizes the tribal governments of Oklahoma.



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PUEBLO

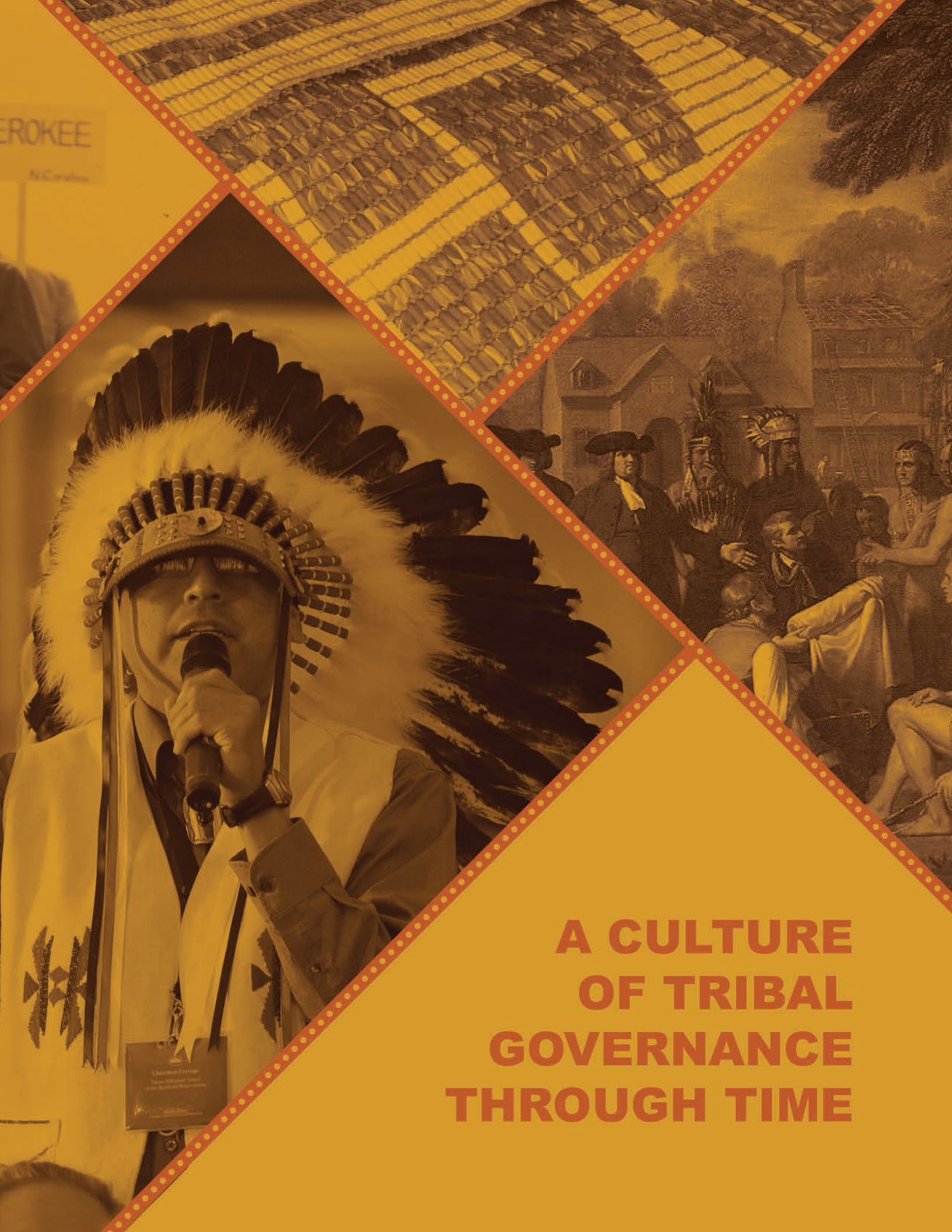
WHITE MOUNTAIN  
APACHE

GILA RIVER  
PIMAMARICOPA  
ARIZONA

RIVER







CHEROKEE  
N.C. State

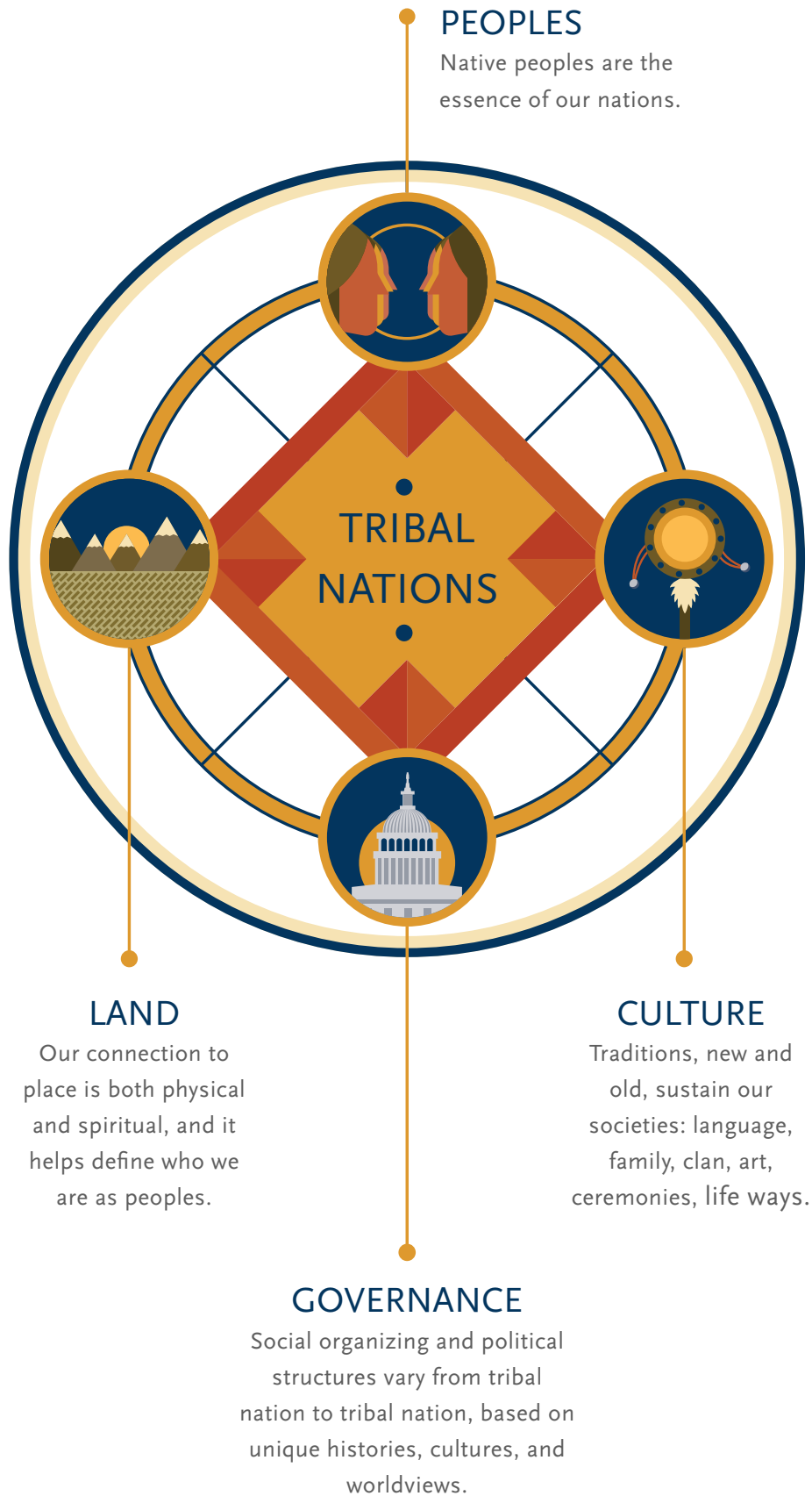
**A CULTURE  
OF TRIBAL  
GOVERNANCE  
THROUGH TIME**

Tens of millions of Indigenous peoples inhabited North America, and governed their complex societies, long before European governments sent explorers to seize lands and resources from the continent and its inhabitants. These foreign European governments interacted with tribal nations in diplomacy, commerce, culture, and war—acknowledging Indigenous systems of social, cultural, economic, and political governance.

Tribal nations have remained as political powers from the colonial period until today—engaging in commerce, trade, cultural exchange, and inspiring the principles of freedom and democracy enshrined in the U.S. Constitution. As the United States formed a union, the founders acknowledged the sovereignty of tribal nations, alongside states, foreign nations, and the federal government in the U.S. Constitution.

Tribal nations are part of the unique American family of governments, nations within a nation, as well as sovereign nations in the global community of nations.

*Rooted in deep traditions and distinct ways of life, tribal nations are defined by the Indigenous peoples, places, cultures, and governance systems they encompass.*





## THE ROOTS OF DEMOCRACY

The principles of governance of tribal nations have long had an influence on the governments and society of the Americas. The prominence of these principles had a historic influence on the formation of democracy and the United States of America as a nation.

### 1100s

Iroquois League of Five Nations formed between Mohawk, Oneida, Onondaga, Cayuga, and Seneca.

### 1751

The League's Constitution, known as the Gayanashagowa (or "Great Law of Peace"), was referenced in 1751 by Benjamin Franklin espousing the example of a Union that "has subsisted Ages and appears indissoluble; and yet that a like union should be impracticable for ten or a dozen English colonies, to whom it is more necessary and must be more advantageous..."

The Iroquois Confederacy recommended this form of government to the British colonists. Canasatego of the Onondaga Nation, shared these words,

"...We heartily recommend Union and a Good Agreement between you, our Brethren. Our wise Forefathers established Union and Amity between the Five Nations; this has made us formidable, this has given us great weight and Authority with our Neighboring Nations. We are a Powerful confederacy, and by your observing the same Methods our wise Forefathers have taken, you will acquire fresh Strength and Power. Therefore whatever befalls you, never fall out with one another."

### 1754

Benjamin Franklin proposed "the Albany Plan," the initial plan for the United States, modeled on the Iroquois Confederacy.

### 1775

The Continental Congress governed Indian affairs during the first years of the United States, In 1775, it established a Committee on Indian Affairs headed by Benjamin Franklin.

*We were a people before "We the People"...*

— 20th and 22nd President of the National Congress of American Indians, Jefferson Keel, 2013

### 1789

"The Congress shall have the power to...regulate commerce with foreign nations, and among the several states, and with the Indian tribes."

—Article 1, Section 8, U.S. Constitution

### 1832

"Indian Nations had always been considered as distinct, independent political communities, retaining their original natural rights, as the undisputed possessors of the soil...the very term 'nation' so generally applied to them means 'a people distinct from other.'"

—Supreme Court Chief Justice John Marshall, *Worcester v. Georgia*, 31 (6 Pet.) 515, 561 (1832)

### 2007

The United Nations Declaration on the Rights of Indigenous Peoples established in September 2007 and supported by the United States in December 2010.

**Article 3** – Indigenous peoples have the right to self-determination. By virtue of that right, they freely determine their political status and freely pursue their economic, social, and cultural development.

**Article 4** – Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

# NATIVE PEOPLE AND TRIBAL GOVERNMENTS TODAY

## WHERE NATIVE PEOPLES LIVE

American Indian reservation and trust land areas comprise 56 million acres.<sup>2</sup> Alaska Native corporations and villages control 44 million acres as fee simple land under the Alaska Native Claims Settlement Act.<sup>3</sup>

# 100 MILLION ACRES

The total land mass under American Indian or Alaska Native control is about 100 million acres and would make Indian Country the fourth-largest state in the United States.<sup>4</sup>



The Navajo Nation would be the 40th-largest state in the U.S. The Navajo Nation is larger than each of the following 10 states: Connecticut, Delaware, Hawaii, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont, and West Virginia.<sup>5</sup>



19 tribal nations have a land base larger than the state of Rhode Island.<sup>6</sup>



12 tribal nations have a land base larger than the state of Delaware.<sup>7</sup>

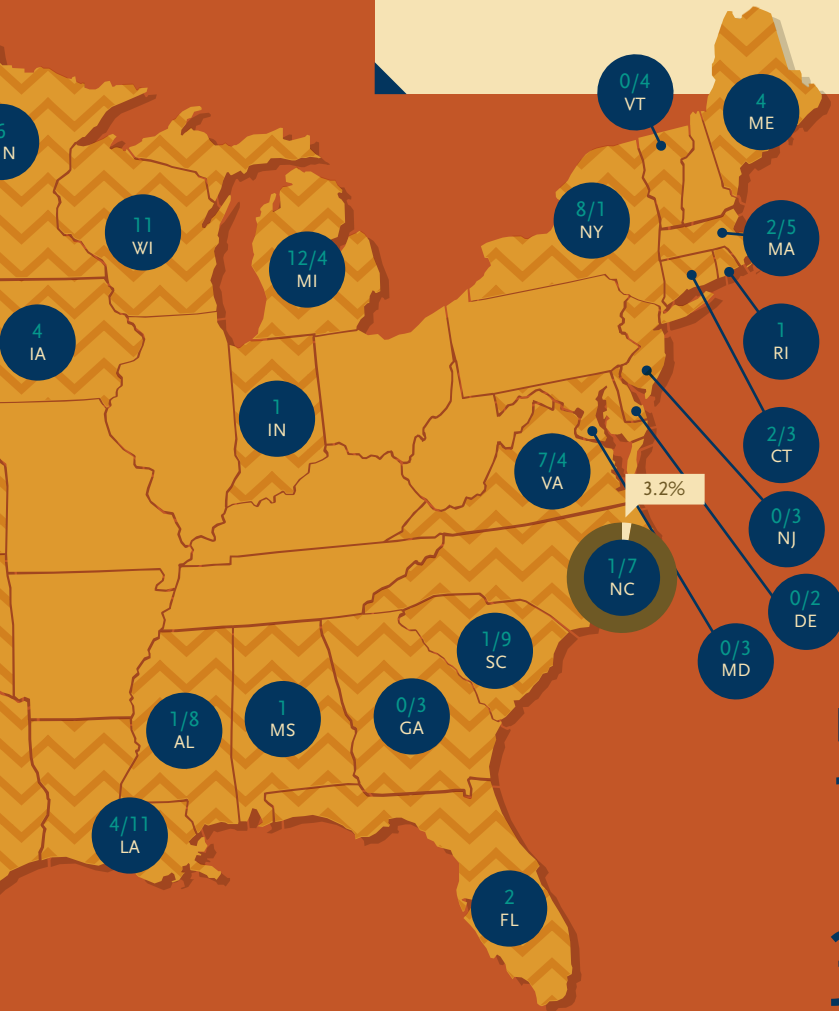


**229** TRIBAL NATIONS LOCATED IN ALASKA

## KEY DEFINITIONS<sup>8</sup>

**American Indian and Alaska Native (AI/AN)**  
Persons belonging to the tribal nations of the continental United States (American Indians) and the tribal nations and villages of Alaska (Alaska Natives).

**Native American**  
All Native people of the United States and its trust territories (i.e., American Indians, Alaska Natives, Native Hawaiians, Chamorros, and American Samoans), as well as persons from Canadian First Nations and Indigenous communities in Mexico and Central and South America who are U.S. residents.



40 tribal nations are within a 100-mile distance of the Canadian and Mexican borders or directly accessible by boat from the border.<sup>9</sup>



Tribal lands share 260 miles of international borders—100 miles longer than California's border with Mexico.<sup>10</sup>

## NATIONS WITHIN A NATION<sup>11</sup>

574 NATIONS

574 sovereign tribal nations (variously called tribes, nations, bands, pueblos, communities, and Native villages) have a formal nation-to-nation relationship with the U.S. government.

334 RESERVATIONS

There were 334 federally and state-recognized American Indian reservations in 2010.

35 STATES

These 574 tribal nations are located across 35 states and within the geographic borders of the United States; however, each tribal nation exercises its own sovereignty. Each of the 574 tribal governments is legally defined as a federally recognized tribal nation.

State-recognized tribal nations are recognized by their respective state governments.

Percentage of AI/AN people in states with the highest proportion of AI/AN people and tribal nations<sup>12</sup>



Federally Recognized Tribal Nations / State-recognized Tribal Nations<sup>13</sup>



State name abbreviation

TRIBAL NATIONS LOCATED IN 34 OTHER STATES 345

\*Note. Individual tribal nations in the map do not sum to 574, because tribes located in multiple states are listed in all their respective locations.



# A HISTORY OF POPULATION

PRE-CONTACT



1.5–20 MILLION

Scholarly estimates range from 1.5 million–20 million Indigenous peoples in North America.<sup>14</sup>

1890–1910



BELOW 250,000

2010



5.2 Million

2060



10 Million

The projected U.S. AI/AN population for July 1, 2060, is estimated to reach 10 million, constituting approximately 2.4% of the U.S. population by that date.<sup>15</sup>

# A FAST-GROWING POPULATION<sup>16</sup>

TOTAL U.S. POPULATION

IN 2010, 5.2 MILLION PEOPLE (OR 1.7% OF THE U.S. POPULATION) IDENTIFIED AS AMERICAN INDIAN/ALASKA NATIVE (AI/AN) ALONE OR IN COMBINATION WITH OTHER RACES, WHILE 0.9% IDENTIFIED AS AI/AN ALONE.



1.7% AI/AN ALONE/IN COMBINATION



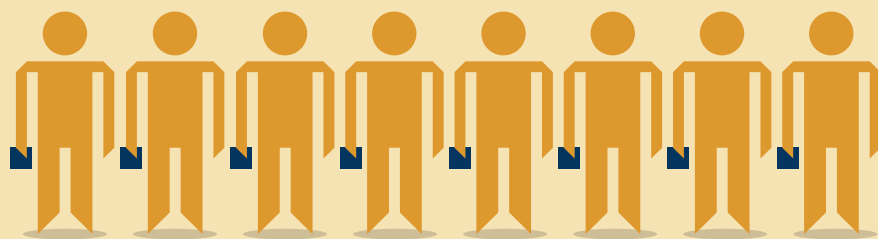
0.9% AI/AN ALONE  
2.9 Million

**+39%**  
INCREASE  
SINCE 2000

While the overall U.S. population grew about 9.7% between 2000 and 2010, the percent of the U.S. population identifying as American Indian/Alaska Native (AI/AN) alone or in combination with other races, grew by 39% at present.

# 4,871,103

AMERICAN INDIANS/  
ALASKA NATIVES ARE  
OF VOTING AGE.<sup>12,17</sup>



## INDIAN COUNTRY IS YOUNG<sup>18</sup>



About 29% of Native people are under the age of 18.



Compared to only 21.9% of the total U.S. population.

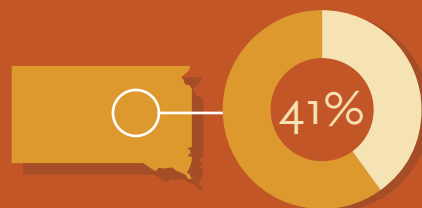
### MEDIAN AGE

NATIVE PEOPLE ON RESERVATIONS:

# 29

TOTAL U.S. POPULATION:

# 38



Some states have even higher proportions of young Native people. For example, in South Dakota nearly 41% of the 91,902 Native people are under 18 years old.

## FAMILIES, HOUSING, AND QUALITY OF LIFE



# \$40,315

### INCOME

The median income of AI/ANs households. This compares with \$57,652 for the nation as a whole in 2017.<sup>19</sup>



# 459,158

### HOUSING

The percentage of AI/ANs homeowners who owned their own home, in 2017. This is less than 1% of all owner-occupied homes. The overall rate is 63.8% for the total population.<sup>20</sup>



# 574,313

### FAMILIES

The number of AI/AN families, in 2017.<sup>21</sup>



# 26.8%

### POVERTY

The percentage of Native people that lived in poverty, in 2017. For the nation as a whole, the corresponding rate was 4.6%.<sup>22</sup>

# TRIBAL NATIONS AND OTHER AMERICAN GOVERNMENTS THROUGH HISTORY

## 1492–1828 COLONIAL PERIOD

The proliferation of European colonies created a dominant presence on North America's East Coast. These colonies acquired Indian lands under the so-called Doctrine of Discovery and signed treaties with the tribal nations. Colonial governments treated tribal nations as governments, setting the precedent for future relations. Following the Revolutionary War, the newborn United States worked with tribal nations on a government-to-government basis.

1828

## 1887–1934 ALLOTMENT AND ASSIMILATION PERIOD

Settlers' increasing desire for the land within reservations and the push to assimilate Natives into mainstream American life led to the General Allotment Act of 1887. This Act (also known as the Dawes Act) dictated the forced conversion of communally held tribal lands into small parcels for ownership by individual Natives. More than 90 million acres—nearly two-thirds of reservation land—were taken from tribal nations and given to settlers, most often without compensation to tribal nations.

1934

## 1828–1887 REMOVAL, RESERVATION, AND TREATY PERIOD

As the U.S. population and military strength grew, so did the U.S. government's pressure on eastern tribal nations to move west, resulting in forced migration. Seeking to obtain more tribal land, the government embarked on an aggressive military campaign throughout the west, relocating tribal nations to reservations. In general, reservations were established through treaties, which required tribal nations to trade large tracts of land for the continued right of self-governance under the protection of the United States.

1887

## 1934–1945 INDIAN REORGANIZATION PERIOD

The federal government, under the Indian Reorganization Act of 1934, ended the discredited policy of allotment. It began to restore tribal lands to tribal nations and attempted to help tribal nations reform their governments. The federal government created programs and projects to help rehabilitate reservation economies.

1945



In the thousands of years preceding the arrival of the Europeans in North America, Native peoples lived in organized societies with their own forms of government—engaging in diplomacy, commerce, and cultural exchange.

### 1945–1968 TERMINATION PERIOD

Congress decided to terminate federal recognition and assistance to more than 100 tribal nations. Public Law 280, passed in 1953, imposed state criminal and civil jurisdiction on many tribal nations in California, Minnesota, Nebraska, Oregon, and Wisconsin. These policies created economic disaster for many tribal nations, resulting in the loss of millions of acres of valuable natural resource land through tax forfeiture sales. Federal policy emphasized the physical relocation of Native people from reservations to urban areas.

1968

### 1968–2000 SELF-DETERMINATION PERIOD

A resurgence of tribal government involvement in federal policy development ended the termination era and prompted the development of a policy of self-determination and self-governance. Policies emerged favoring tribal control over their destinies. Under the self-determination and self-governance acts, tribal governments managed many federal programs serving Indian people.

2000

### 2000–PRESENT NATION-TO-NATION PERIOD<sup>23</sup>

By the new millennium, tribal governments made substantial gains in self-governance. In the new century, about half of the Bureau of Indian Affairs' total obligations to tribal nations have been in the form of self-determination and self-governance contracts and compacts, and the Indian Health Service entered into compacts with more than 75 tribal nations to provide health services.

In 2000, President Clinton issued Executive Order 13175 for Consultation and Coordination with Indian Tribal Governments to strengthen the U.S. government-to-government relationships. By 2011, the number of self-governance tribal nations has steadily increased to 260 with the Department of the Interior and 332 with the Department of Health and Human Services.

During this period, tribal nations progressively utilized existing federal policy and their own economic success to strengthen themselves independent of the federal government's actions. In 2009, President Obama affirmed President Clinton's earlier Executive Order and convened the first-annual White House Tribal Nations Summit, committing the U.S. government to the nation-to-nation relationship.







SPEAKER  
NAYAGI NATION SOONERS

JOHNNY NAIZE



RS

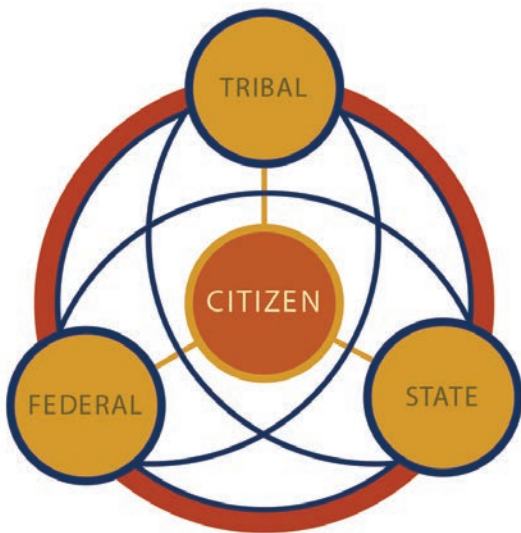
# TRIBES ARE NATIONS



## A POLITICAL RELATIONSHIP

American Indians and Alaska Natives descend from the original Indigenous peoples of North America. Tribal nations have been recognized as sovereign since their first interaction with European settlers. The United States continues to recognize this unique political status and relationship.

Native peoples and governments have inherent rights and a political relationship with the U.S. government that does not derive from race or ethnicity. Tribal citizens are citizens of three sovereigns: their tribal nations, the United States, and the state in which they reside. They are also individuals in an international context with the rights afforded to any other individual.



## TRIBAL SOVEREIGNTY: NATIONS WITHIN A NATION

*Sovereignty* is a legal word for an ordinary concept—the authority to self-govern. Hundreds of treaties, along with the Supreme Court, the President, and Congress, have repeatedly affirmed that tribal nations retain their inherent powers of self-government. These treaties, executive orders, and laws have created a fundamental contract between tribal nations and the United States. Tribal nations are located within the geographic borders of the United States, while each tribal nation exercises its own sovereignty.

**370** TREATIES  
SIGNED BETWEEN  
1778–1871

## TREATIES BETWEEN TRIBAL NATIONS AND OTHER GOVERNMENTS<sup>24</sup>

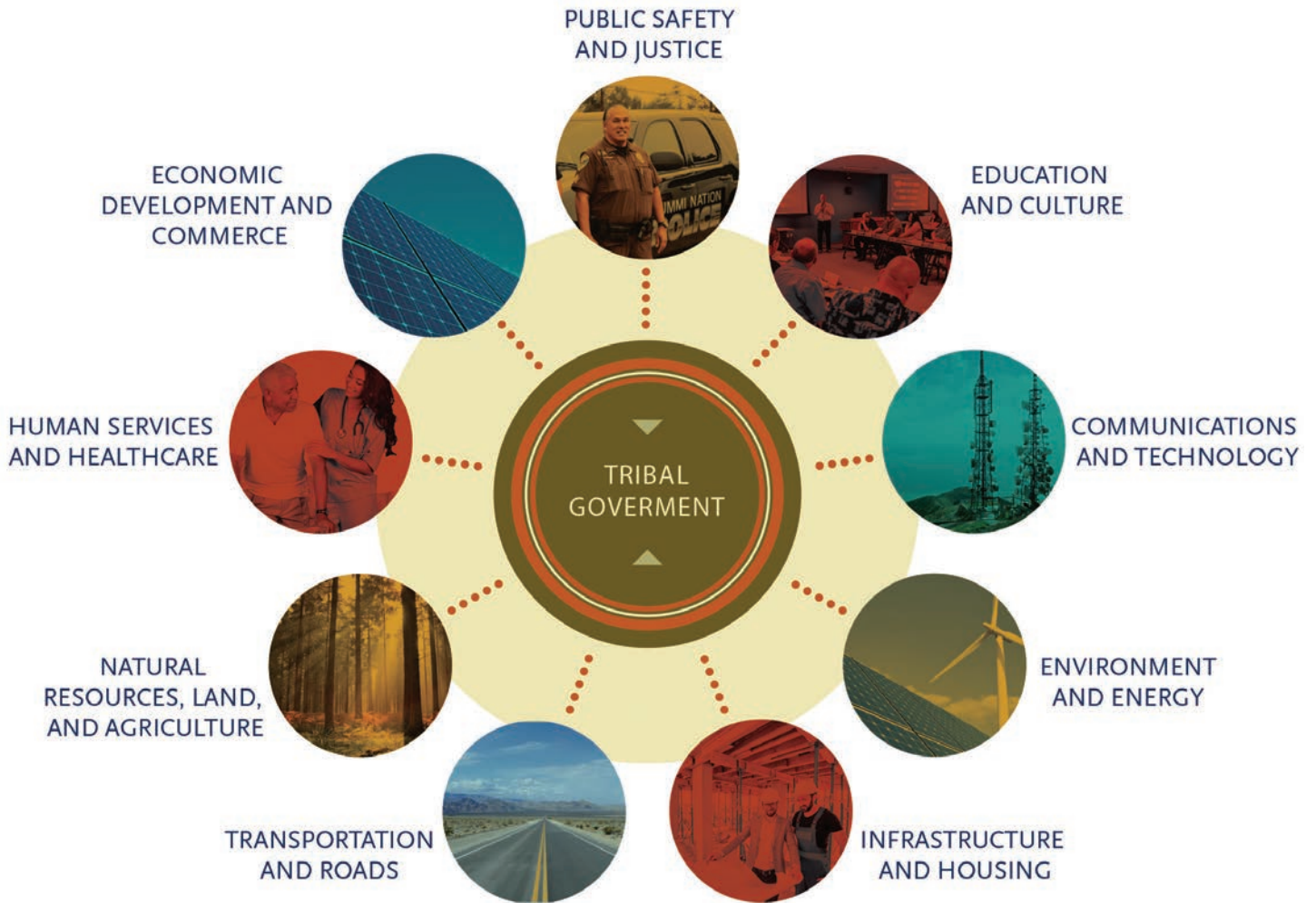
When European settlers came to America, they dealt with tribal nations as sovereign nations. Exchanges of land and guarantees of peace were handled by treaty, and since then, hundreds of treaties between tribal nations and the United States have been negotiated by the President and ratified by two-thirds of the Senate. From 1778 to 1871, the federal government entered more than 370 treaties with various tribal nations.

U.S. treaties with tribal nations have the same status as treaties with foreign nations, and because they are made under the U.S. Constitution and are “the supreme law of the land,” they take precedence over any conflicting state law. These contracts represent an exchange and acknowledgement of certain rights, not a grant of rights, already held by tribal governments and peoples.

Treaties with tribal nations vary widely in their terms and provisions. Treaties commonly included:

- ◆ Guarantee of peace
- ◆ A provision on land boundaries
- ◆ Hunting and fishing rights (often including lands outside the reservation boundaries)
- ◆ Tribal recognition of U.S. authority
- ◆ U.S. protection

In addition, many treaties contain specific promises of federally provided health care, education, housing, economic development, and agricultural assistance. Treaties established the principles of the federal “trust responsibility,” to protect both tribal lands and tribal self-government, and to provide for federal assistance to ensure the success of tribal communities. The federal government has never adequately funded these treaty provisions. These treaties did not have an expiration date.



*The Congress shall have the power to...regulate commerce with foreign nations, and among the several states, and with the Indian tribes.*  
 – Article 1, Section 8, U.S. Constitution

## TRIBAL-FEDERAL AGREEMENTS IN THE MODERN ERA<sup>25</sup>

In 1871, Congress passed a legislative rider that attempted to limit the power of the President to enter into treaties with tribal nations. Although this legislation is of questionable constitutionality, it nevertheless made clear that no further treaties would be ratified through Senate approval alone.

As a result, not all tribal nations have Senate-ratified treaties. Although the U.S. Senate did ratify 370 Indian treaties between 1778 and 1871, at least another 45 were negotiated with tribal nations but were never considered for ratification during that period.

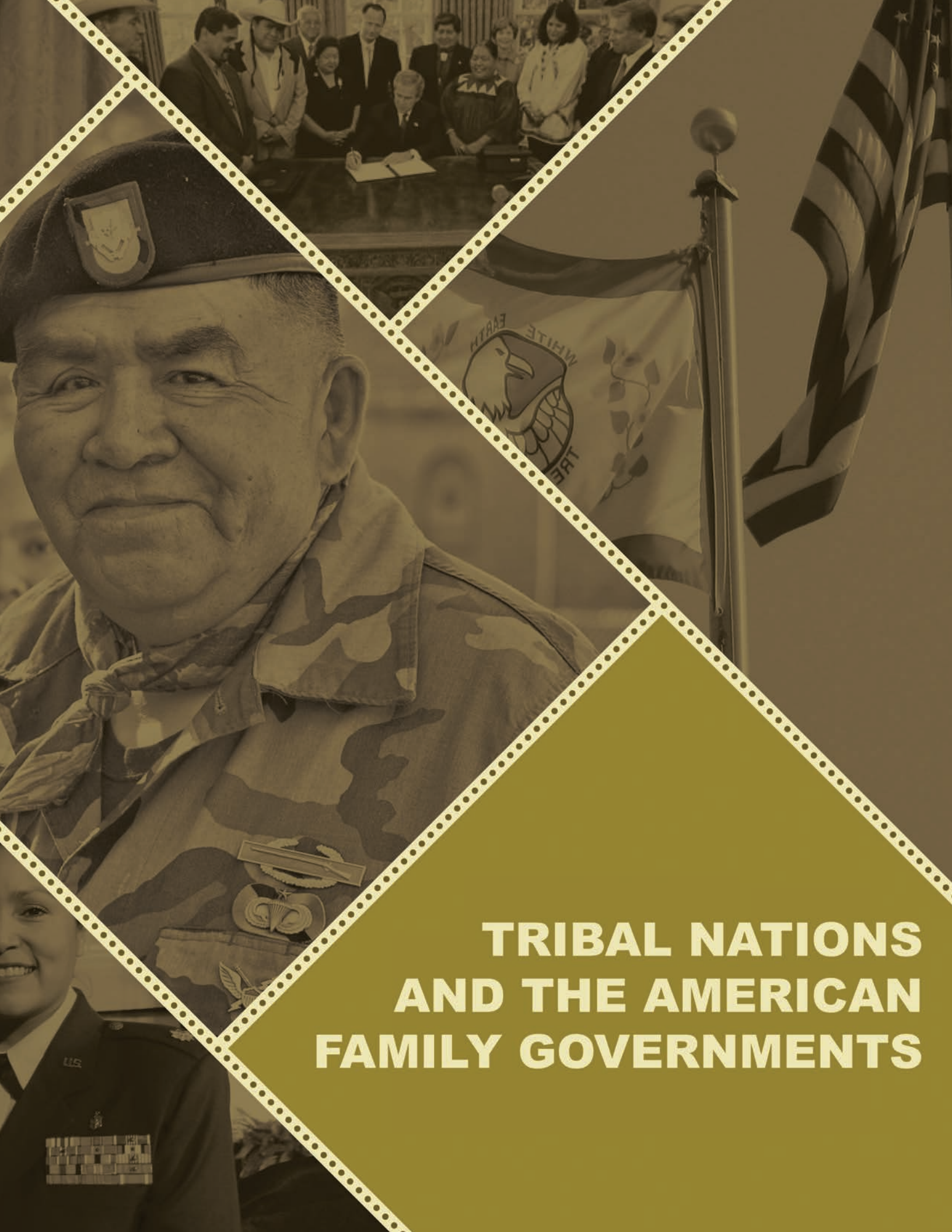
As determined by the U.S. Court of Claims, some of these unratified treaties have taken legal effect. After the practice of Senate-ratified treaty-making ended, many tribal nations have been federally recognized through executive order statute.

While the nature of tribal-federal agreements has changed since 1871, the federal government still negotiates contracts and compacts with tribal nations to this day. These agreements follow a similar formula and have a similar legal effect to treaties that were ratified by the Senate prior to 1871. In that sense, a form of treaty-making continues to this day.

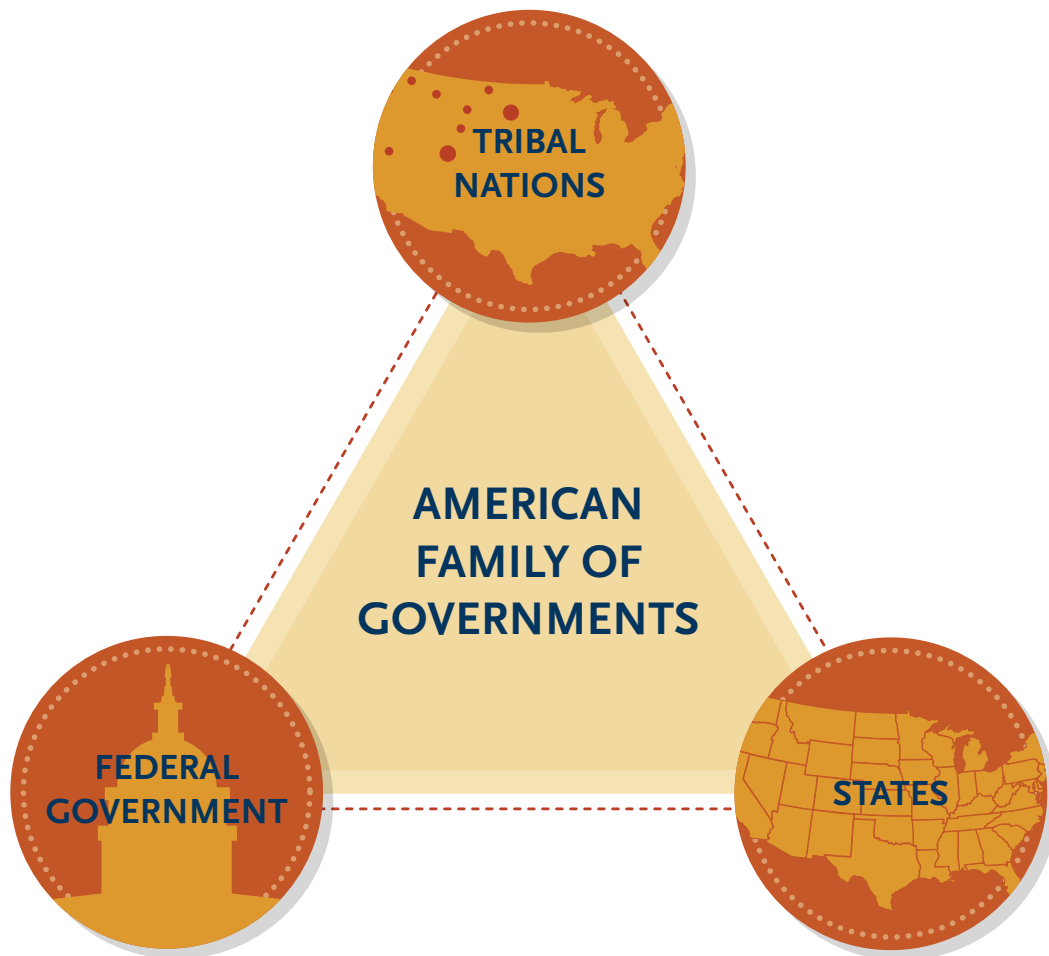








**TRIBAL NATIONS  
AND THE AMERICAN  
FAMILY GOVERNMENTS**



*It is the obligation of the federal government to protect tribal self-governance, lands, assets, resources, and treaty rights, and to carry out the directions of federal statutes and court cases.*

**THE THREE GOVERNMENTS:  
TRIBAL, FEDERAL AND STATE**

As sovereign nations, federally recognized American Indian and Alaska Native tribal nations have a government-to-government relationship with the two other sovereign governing bodies of the United States: the federal and state governments. Through these modern and historic relationships, tribal governments, the federal government, and state governments are linked together in a unique relationship outlined in the U.S. Constitution. Together, they form an American

family of governments—interrelated yet uniquely distinct from each other.

Tribal law, federal law, and state laws define the responsibilities, powers, limitations, and obligations of (and between) these sovereigns. Tribal governments and state governments have a great deal in common, and established best practices in tribal–state relationships have resulted in continuing cooperative efforts that produce benefits across communities and regions throughout the United States.

## THE TRUST RELATIONSHIP

The federal trust responsibility, one of the most important doctrines in federal Indian law, derives from the treaties between tribal nations and the U.S. government and from traditional European legal theory. It is the obligation of the federal government—all branches and agencies—to protect tribal self-governance, tribal lands, assets, resources, and treaty rights, and to carry out the directions of federal statutes and court cases. The Supreme Court has defined this trust responsibility as a “moral obligation of the highest responsibility and trust” (*Seminole Nation v. United States*, 1942).

The trust responsibility can be broadly divided into two interrelated areas:

1. **Property protection**  
Mandating that the federal government protect tribal property and assets where the title is held in trust by the United States for the benefit of the tribal nation
2. **Self-government and land preservation**  
Federal obligation to guarantee tribal lands and resources, as a base for distinct tribal cultures (permanent tribal community requires a secure land base to govern and develop, water to irrigate the land, access to fish and game, and income from natural resource development)



*This goal, of course, has never been achieved. But the special relationship between the Indian tribes and the federal government which arises from these agreements continues to carry immense moral and legal force. To terminate this relationship would be no more appropriate than to terminate the citizenship rights of any other American.*

– President Richard Nixon  
Special Message to the Congress on Indian Affairs  
July 8, 1970



## TRIBAL GOVERNANCE

The essence of tribal sovereignty is the ability to govern and to protect and enhance the health, safety, and welfare of tribal citizens within tribal territory. Tribal governments maintain the power to determine their own governance structures and enforce laws through police departments and tribal courts. They exercise these inherent rights through the development of their distinct forms of government, determining citizenship; establishing civil and criminal laws for their nations; taxing, licensing, regulating, and maintaining and exercising the power to prosecute wrongdoers and exclude them from tribal lands.

In addition, tribal governments are responsible for a broad range of governmental activities on tribal lands, including education, law enforcement, judicial systems, health care, environmental protection, natural resource management, and the development and maintenance of basic infrastructure such as housing, roads, bridges, sewers, public buildings, telecommunications, broadband and electrical services, and solid waste treatment and disposal.

*The essence of tribal sovereignty is the ability to govern and to protect and enhance the health, safety, and welfare of tribal citizens within tribal territory.*



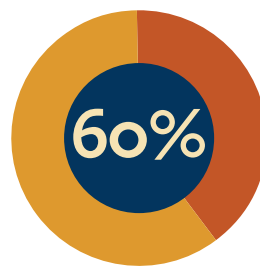
## SYSTEMS OF GOVERNING

Traditional tribal governments existed in the United States long before European contact and have evolved over time. The governmental status of tribal nations is at the heart of nearly every issue that touches Indian Country. Self-government is essential if tribal communities are to continue to protect their unique cultures and identities. Tribal nations have the inherent power to govern all matters involving their citizens, as well as a range of issues in Indian Country. Tribal nations form their governments either by election of members to a governing council as provided in a tribal nation's constitution or, in some cases, by elders choosing the tribal nation's leaders in a traditional process. Each tribal nation generally has one elected chairperson, president, chief, or governor who is the recognized leader of the nation and who has authority to act as such when dealing with the federal government. Many tribal nations have organized their governments under the auspices of the Indian Reorganization Act (IRA) of 1934, and the Secretary of the Interior approves their constitutions and amendments.

Federally recognized tribal nations have governments that are diverse in structure and decision-making processes. Because some tribal constitutions were patterned after the model constitution developed by the Bureau of Indian Affairs—in response to the IRA—some similarities exist among tribal governments. These standard tribal constitutions contain provisions describing tribal territory, specifying eligibility for citizenship, and establishing the governing bodies and their powers.

### Governing Authority

Most tribal nations give legislative authority to a tribal council. In some instances, the tribal council members are elected by district; in others, they are elected at large. The council generally has authority to write tribal laws, and council members have administrative duties in some tribal nations. Most tribal constitutions also provide for an executive officer, called a “tribal chairman,” “president,” “governor,” or “chief.” In some tribal nations, the tribal council elects the chief executive, while the voting citizens directly elect the leader in others. In most cases, the chief executive's duties and powers are not specified in the constitution but are set in the bylaws. Consequently, the role of the chief executive varies greatly among tribal nations. Many tribal nations also have created their own court systems



## PERCENTAGE OF TRIBAL GOVERNMENTS BASED ON IRA CONSTITUTIONS

that administer codes passed by the tribal council. In many tribal nations, judges are elected by popular vote; in others, the tribal council appoints judges.

About 60% of tribal governments are based on IRA constitutions.<sup>26</sup> Tribal nations that have chosen other structures and constitutions frequently have made the decision to do so in favor of a government that is more traditional to the nation. For example, the Navajo Nation has no written constitution but operates under a detailed tribal code and has an elected council and president. Many of the Pueblos in New Mexico operate entirely under unwritten, customary law, with traditional leadership and a unique government structure.

### Alaska Native Governance<sup>27</sup>

All tribal nations are unique. Of the 574 federally recognized tribal nations, 229 are located in Alaska. Each of the Alaska Native tribal nations is distinctly unique from tribal nations located in the lower 48 United States. Alaska Native tribal nations have no treaties with the U.S. government, as treaty-making ended in 1871, just years after the 1867 Alaska Purchase Treaty with Russia.

The governing bodies of Alaska Native communities vary from tribe or village “traditional councils,” to “Native councils,” “village councils,” “tribal councils, or “IRA councils.” In some instances, the term “village” is used instead of “tribe,” as tribal nations in Alaska were often recognized by the term “village” under the Alaska Native Claims Settlement Act (ANCSA) of 1971.

#### What is Alaska Native?

The term “Alaska Native” or “Native” is used to include all Indigenous people in Alaska and is used in place of the word “Indian.”




“American Indian/Alaska Native” or “AI/AN” is used frequently when describing both together.

## WHAT IS FEDERAL RECOGNITION?<sup>28</sup>

Federal recognition of a tribal nation denotes the United States' acknowledgement of a tribal nation's political status as a government. Members of federally recognized tribal nations are eligible for a number of federal programs, including those offered to Native people by the Indian Health Service.

### How do tribal nations become federally recognized?

The process of attaining federal recognition is long, complex, and extremely stringent. In 1994, Public Law 103-454 (the Federally Recognized Indian Tribe List Act) formally established three ways for tribal nations to become federally recognized:

-  Act of Congress
-  A decision of a U.S. court
-  The administrative procedures set forth in part 83 of the Code of Federal Regulations denominated "Procedures for Establishing that an American Indian Group Exists as an Indian Tribe." In this process, applicants must submit petitions responding to the seven criteria to the Bureau of Indian Affairs (BIA) Office of Federal Acknowledgment (OFA).

The majority of today's federally recognized tribal nations received the designation through treaties, acts of Congress, Presidential executive orders, or other federal administrative actions or federal court decisions. The administrative procedures process for tribal nations applying for federal recognition can take decades for applications to be reviewed and decided upon.

There are seven criteria to become federally recognized, all of which must be met to receive federal recognition.

1. The tribal nation has been identified as an American Indian entity on a substantially continuous basis since 1900.
2. A predominant portion of the tribal nation comprises a distinct community and has existed as a community from historical times until the present.
3. The tribal nation has maintained political influence or authority over its members as an autonomous entity from historical times until the present.
4. The tribal nation must provide a copy of the group's present governing document, including its citizenship criteria. In the absence of a written document, the petitioner must provide a statement fully describing its citizenship criteria and current governing procedures.
5. The tribal nation's citizenship consists of individuals who descend from a historical tribal nation or nations, which combined and functioned as a single autonomous political entity.
6. The citizenship of the tribal nation is composed principally of persons who are not members of any other recognized tribal nation.
7. Neither the tribal nation nor its citizens are the subject of Congressional legislation that has expressly terminated or forbidden recognition.

## TRIBAL LANDS

Land is of great spiritual and cultural significance to tribal nations, and many Native communities continue to rely upon the land for subsistence through hunting, fishing and gathering. Land-based production such as agriculture, forestry, mining, oil and gas production, and renewable energy play a prominent role in tribal economies. Moreover, tribal lands are critical for the exercise of tribal self-governance and self-determination.

“Indian country” is a defined legal term for that area over which the federal government and tribal nations exercise primary jurisdiction.<sup>29</sup> Land within existing Indian reservations constitutes the majority of Indian country. Reservations are defined geographic areas with established boundaries recognized by the United States. Some reservations are made up wholly of trust lands; other reservations include trust lands as well as fee lands owned by tribal nations, individual Natives, and non-Natives.

Today, tribal nations hold more than 56 million acres of land, approximately 2% of the United States. Most of these lands are in arid and remote regions. The largest reservation—the Navajo Nation—covers an area as large as West Virginia. Some reservations are as small as a few acres, and some tribal nations hold no land at all.<sup>30</sup>

## TRIBAL TRUST LANDS<sup>31</sup>

There are approximately 334 Indian land areas in the United States administered as federal Indian reservations (i.e., reservations, pueblos, rancherias, missions, villages, communities, etc.).

Through the Dawes Act, the federal government forcibly converted communally held tribal lands into small parcels for individual ownership, most often without compensation to the tribal nations. In addition, the Termination Era of the 1940s and 1950s resulted in the loss of huge amounts of reservation land.



Nearly  $\frac{2}{3}$  of reservation lands were taken from tribal nations and given to settlers as a result of the **General Allotment Act of 1887**.

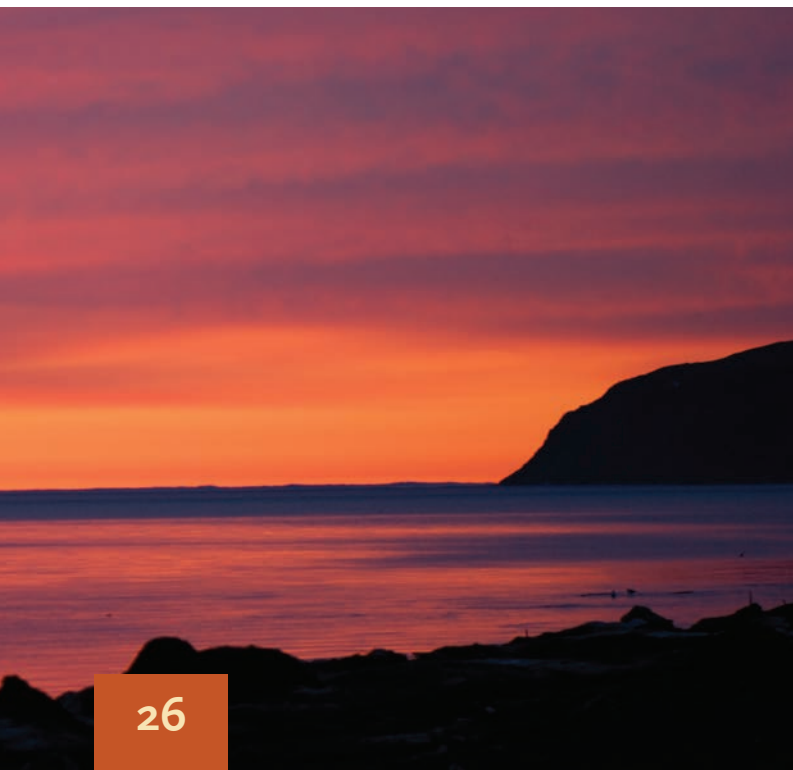
90M

ACRES IN THE CONTINENTAL UNITED STATES TAKEN BY THE U.S. GOVERNMENT BETWEEN 1887 AND 1934

56  
MILLION

ACRES CURRENTLY HELD IN TRUST BY THE FEDERAL GOVERNMENT FOR VARIOUS TRIBAL NATIONS AND INDIVIDUALS

Unalakleet (Alaska), Cape Flattery (Washington), Coal Mine Canyon (Arizona), and Gay Head Cliffs (Massachusetts)





## Placing “Land into Trust”

Under the 1934 Indian Reorganization Act, the federal government and the tribal nations can place additional land in trust in order to “...conserve and develop Indian lands and resources” and to stimulate tribal economic development. This land usually is purchased by the tribal nation or acquired from federal surplus lands. Trust status can be conferred only by the Secretary of the Interior or the U.S. Congress.

Since 1934, the Department of the Interior has taken about 9 million acres back into trust status—about 10% of the total amount of land lost.<sup>32</sup> The vast majority of reacquired lands have been within the boundaries of existing reservations; however, it is sometimes necessary for tribal nations to acquire land outside reservation boundaries. This is particularly true for tribal nations that have extremely small reservations, for those in remote areas far from the mainstream of economic life, and for those tribal

nations where reservations were diminished during the allotment or termination periods.

Regulations require that the Secretary of the Interior notify and consider the views of state and local governments before making a determination on taking land into trust status. The Secretary must specifically consider the effect on state and local governments of removal of the land from the tax rolls. State and local governments have the right to appeal a Secretarial decision both within the Department of the Interior and in the federal courts.

Much stricter limitations exist on placing land into trust if that land is to be used by a tribal government for gaming purposes. The Indian Gaming Regulatory Act of 1988 prohibits gaming on off-reservation lands that were acquired in trust after 1988, unless the governor of the state concurs and the Secretary determines that gaming would not be detrimental to the surrounding community.

## Federal Indian Reservations

There are three types of reserved federal lands in the U.S.: military, public, and Indian.

A federal Indian reservation is defined by the U.S. Department of the Interior as “an area of land reserved for a tribe or tribes under treaty or other agreement with the United States, executive order, or federal statute or administrative action as permanent tribal homelands, and where the federal government holds title to the land in trust on behalf of the tribe.”

The ways in which reservations were determined vary; some include a tribal nation’s original land base, while other reservations were established by the federal government to resettle Native people forcibly removed from original homelands and areas. Not all federally recognized tribal nations have a reservation. A number of states have established reservations for state-recognized tribal nations.





## Non-Indian Fee Lands<sup>33</sup>

One of the primary issues regarding Indian lands is the effect of former federal land policies—including allotment—which left many tribal nations with reservations that are scattered, fractionated, and intermixed with lands held by non-Natives. This landholding pattern, often called “checkerboarding,” often renders the tribal land base less usable for agriculture, timber, or other forms of economic development.

The Supreme Court has confirmed the authority of tribal governments to exercise civil authority over the conduct of non-Natives on fee lands within a reservation when that conduct threatens the political integrity, the economic security, or the health and welfare of the tribal nation (*Montana v. United States*, 1981). In practice, jurisdictional matters on checkerboard lands call for a high level of coordination and the development of cooperative agreements between tribal, state, and local officials.

## Alaska Native Lands<sup>34</sup>

In 1971, just over a hundred years after Alaska became part of the United States, the Alaska Native Claims Settlement Act of 1971 (ANCSA) created a legal framework for settling Alaska Native land claims, fishing and hunting rights, and provided for economic development. Land claims were settled differently than the “land into trust” framework developed for tribal nations within the “Lower 48.” Although there are 229 tribal nations in Alaska, there is only one reservation, the Metlakatla Indian Community of the Annette Island Reserve.

Originally, ANCSA allotted 40 million acres of land, divided among 12 for-profit regional Native corporations and 220 village corporations, established to manage Alaska Native lands and resources. A thirteenth corporation was formed in 1975 to represent Alaska Natives residing outside the state; currently there are 13 regional corporations and over 200 village and urban corporations. ANCSA and Alaska state corporate law regulates these corporations.

## Private Ownership

American Indian and Alaska Native tribal nations, businesses, and individuals may also own land as private property. In such cases, they are subject to state and local laws, regulations, codes, and taxation.

### Types of “Indian lands”

Allotted lands are lands from reservations divided up to individual members of affected tribal nations during the federal allotment period—starting with the General Allotment Act in 1887 (also known as the Dawes Act) until the Indian Reorganization Act of 1934. Allotments were conveyed to tribal citizens and held in trust by the federal government. Ten million acres of individually owned lands are still held in trust for allottees and their heirs.

Restricted status, or restricted fee lands, are lands for which the title to the land is held by an individual Native person or a tribal nation and “which can only be alienated or encumbered by the owner with the approval of the Secretary of the Interior because of limitations contained in the conveyance instrument pursuant to federal law.”

State Indian reservations are lands held “in trust” by a state for a tribal nation. With state trust lands, title is held by the state on behalf of the tribal nation and the lands are not subject to state property tax. They are subject to state law, however. State trust lands stem from treaties or other agreements between a tribal group and the state government or the colonial government(s) that preceded it.

### Three types of Alaska Native corporations exist:

- Village corporations own and manage lands surrounding the villages.
- Urban corporations own and manage lands in urban areas.
- Regional corporations own and manage lands outside and surrounding village corporation lands, including large tracts of land throughout the state. Regional corporations own the subsurface estate, such as mineral rights, of the village and urban corporation lands.

### What is the difference between “Indian country” and “Indian Country”?

“Indian country” is the term for the area over which the federal government and tribal nations exercise primary jurisdiction. It is a term with a distinct meaning in legal and policy contexts.

“Indian Country” (both words capitalized) is a broader term used to refer more generally to tribal governments, Native communities, cultures, and peoples.

## LAW ENFORCEMENT AND PUBLIC SAFETY<sup>35</sup>

As of September 2008, tribally operated law enforcement agencies employ more than:

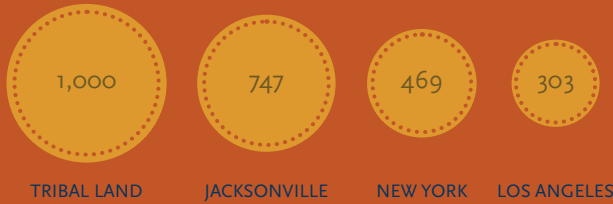
**4,500**  
FULL-TIME PERSONNEL

+

**3,000**  
SWORN OFFICERS

Eleven of the 25 largest tribal law enforcement agencies serve jurisdictions covering more than 1,000 square miles—a larger land area than any city in the contiguous United States.

— Land area in approximate square miles —



General purpose tribal police departments have a combined service population of about 1.2 million residents<sup>36</sup>



Tribal law enforcement patrols approximately:



Using Only 0.004% of the nation's law enforcement



Law Enforcement Officers of the Lummi Nation

## TRIBAL JURISDICTION: CIVIL/CRIMINAL

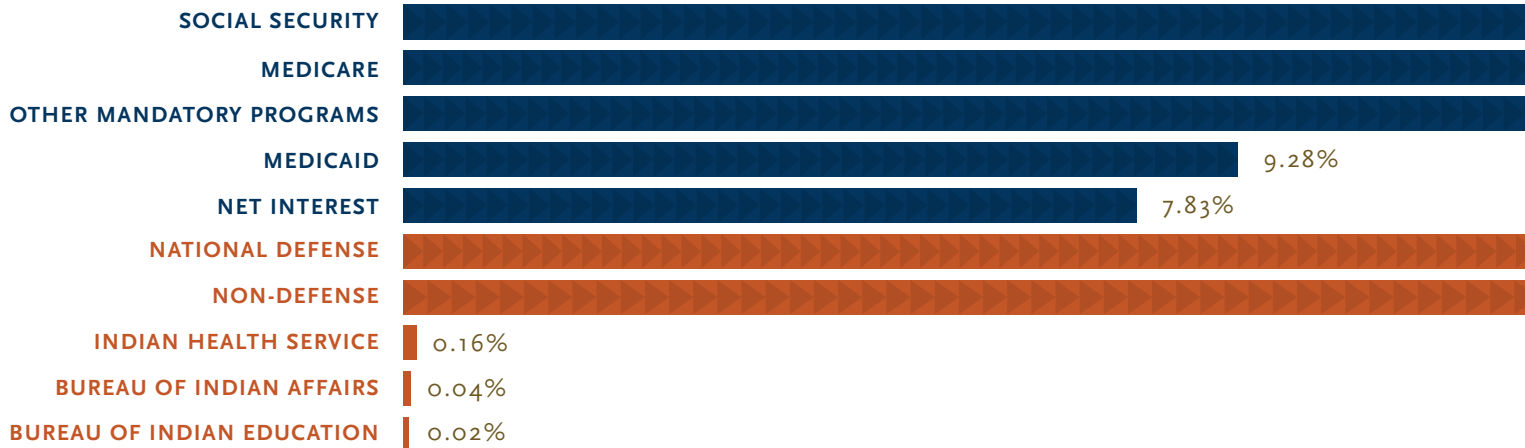
Tribal lands are set aside under federal law as territories for the exercise of tribal self-government and the preservation of Native cultures. In general, tribal governments have jurisdiction over civil matters that arise within Indian country and are subject to numerous federal laws that define the contours of tribal authority. Tribal governments also have criminal jurisdiction, although it is more limited. Tribal nations prosecute criminal offenses committed by Natives on tribal lands with sentences of up to three years. One hundred eight tribal nations have some form of judicial system and 175 tribal nations have a formal tribal court.<sup>37</sup> The federal government also has criminal jurisdiction, specifically over most major crimes committed in Indian country. Tribal courts do not generally have criminal jurisdiction over non-Natives, although, in 2013, Congress restored tribal criminal jurisdiction over non-Natives who have committed acts of domestic violence against Natives within Indian country.

### State Jurisdiction

States do not have civil or criminal jurisdiction within Indian country except that which the Congress may delegate or the federal courts determine exists. In the 1950s, Congress enacted several statutes, including Public Law 280, giving states jurisdiction over offenses committed within some reservations. Some of the states have returned this statutory jurisdiction to the federal government. States also have criminal jurisdiction over criminal matters that involve only non-Natives. State jurisdiction over federal Indian territory does not extend to any matter that is not consistent with tribal self-government and the authority of the United States to protect tribal governmental authority and lands.

FY 21 PROPOSED OUTLAYS

■ Mandatory ■ Discretionary



FEDERAL FUNDING

Like state governments, tribal governments receive some federal funding for the programs they operates. The federal government has an obligation to tribal governments based on numerous treaties and on the overall trust responsibility. Funding, while a trust obligation and responsibility, also helps to ensure that basic needs are met and helps build the foundation for a stronger economic base for Indian Country and surrounding communities.

Despite these obligations, federal funding is not enough to fulfill the services and meet the infrastructure needs of many tribal governments. Underfunding by the U.S. government to meet the needs in Indian Country was referred to by the U.S. Civil Rights Commission as a “quiet crisis.”<sup>38</sup>

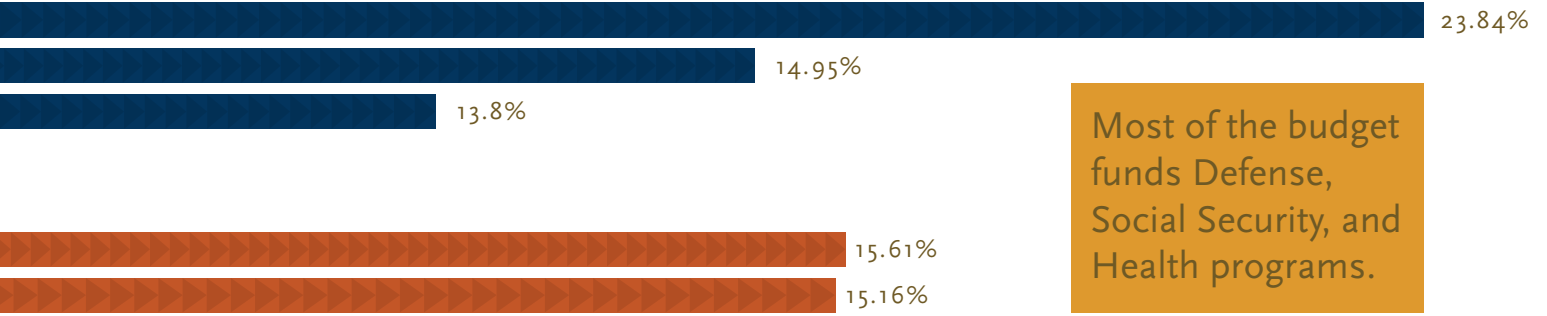
A significant number of programs funding trust responsibilities are provided funding through the non-defense discretionary portion of the federal budget. Take for example the proposed funding for tribal programs in Fiscal Year 2021, represented in the chart above. Together the bulk of funding for tribal programs only represents 0.19% of the entire federal budget.

Federal agencies that provide important funding for Indian Country include:

- ◆ Department of the Interior: Bureau of Indian Affairs and Bureau of Indian Education, Indian Health Service  
*Interior appropriations bill*
- ◆ Department of Health and Human Services, Administration for Children and Families, Department of Education  
*Labor, HHS, Education appropriations bill*
- ◆ Department of Justice: Office of Justice Programs, State and Local Law Enforcement, Office on Violence Against Women, Community Oriented Policing Services  
*Commerce, Justice, Science appropriations bill*
- ◆ Housing and Urban Development: Indian Housing Block Grant, Indian Community Development Block Grant  
*Transportation, Housing appropriations bill*

*The underfunding by the U.S. government to meet the needs of Indian Country was referred to by the U.S. Civil Rights Commission as a “quiet crisis” caused by “broken promises.”*





Most of the budget funds Defense, Social Security, and Health programs.

## TAXATION

There are a number of common misunderstandings about tax issues in Indian Country. Native people pay federal income tax just like all other Americans. The exception is that the income a Native receives directly from a treaty or trust resource such as fish or timber is not federally taxed. States cannot tax tribal citizens who live on and derive their income from tribal lands, but those who work or live outside tribal lands generally are subject to state income, sales, and other taxes.

Like state governments, tribal governments are considered sovereign governments and are not subject to taxation by the federal government or states. This is a longstanding federal policy with Constitutional support that prevents interference with tribal nations’ ability to raise revenue for government functions.

Like state and local governments, tribal governments use their revenues to provide essential services for their citizens. Unlike state governments, tribal governments are generally not in a position to levy property or income taxes because of the unique nature of land tenure in Indian Country, fragile economies, and jurisdictional restraints. Income from tribal businesses is the primary non-federal revenue source for most tribes. Sales and excise taxes are becoming an increasingly important source of revenue for tribal governments.

### State Taxes

States cannot directly tax a tribal government. The Supreme Court (*Washington v. Colville*) has held that

state governments can collect excise taxes on sales to non-members that occur on tribal lands, so long as the incidence of the tax does not fall directly on the tribal government. States and tribal nations have developed a variety of methods for collecting these taxes where the states choose to do so, including intergovernmental agreements.

### Tribal Taxes and “Dual Taxation”

Taxation is an integral source of funding for all governments, including tribal governments. As sovereign governments, tribal nations can tax revenues generated within reservation boundaries.

Some states view some transactions on tribal land as “lost revenue,” and use their ability to tax reservation revenues in certain circumstances to impose state taxation on sales to non-Natives in reservation communities. This results in “dual taxation,” which cripples the already limited economic development options available to tribal nations by forcing tribal nations to choose between reducing tribal tax revenues or discouraging economic growth caused by the double-taxing of businesses. This ultimately constitutes a choice between providing basic social services to their citizens—made possible by taxes—and encouraging economic development to help relieve high unemployment and poverty rates.

Tribal nations and states have developed a variety of methods for addressing this inequity, often through intergovernmental agreements or through state statutes.

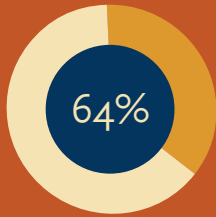
## INDIAN HEALTH SERVICE<sup>39</sup>



APPROXIMATELY  
**2.56 Million**

American Indians and Alaska Natives are served by the IHS, which operates a comprehensive health service delivery system.

The majority of those who receive IHS services live primarily on reservations and in rural communities in 37 states, mostly in the western United States and Alaska.



Percentage of IHS service area population residing in tribal areas

The IHS funds 41 urban Indian health organizations, which operate at sites located in cities throughout the United States.<sup>40</sup>



**600,000**

Approximately 600,000 American Indians and Alaska Natives are eligible for programs in urban clinics.<sup>41</sup>

## HEALTH CARE<sup>42</sup>

The federal government fulfills its responsibility to provide health care through the Indian Health Service (IHS), U.S. Department of Health and Human Services. IHS oversees the delivery of health services through direct IHS, tribally operated, and urban health clinics. More than 2,000 facilities provide primary care and limited dental services to 2.56 million American Indian and Alaska Native citizens and descendants.

The passage of the Affordable Care Act (ACA) and permanent reauthorization of the Indian Health Care Improvement Act (IHCA) in 2010 provided Indian Country with new opportunities to ensure the health, wellness, and strength of tribal citizens and communities. Provisions of the ACA offer American Indians and Alaska Natives improved insurance protections, such as no-cost preventative services, elimination of lifetime caps on health coverage, and prohibitions on denial of insurance coverage to children with pre-existing conditions.

## EDUCATION<sup>43</sup>

Federal dollars also help pay for education in Indian Country—a major function that makes up a basic building block of the economy. A majority of Native students attend public schools. During the 2010–11 school year, there were 378,000 AI/AN (alone) students in the U.S. public school system. During the same period, there were 49,152 students in Bureau of Indian Education (BIE) Schools.

Funding for Indian education and schools is the responsibility of the federal government, while both state and federal resources provide public education funding. Local Education Agencies (LEAs) and their surrounding communities also have the ability to pass bond initiatives in order to build or repair local school buildings. Tribal and BIE schools, on the other hand, must rely on the federal government to ensure their academic and construction needs are met. The extent to which the federal government has assumed this responsibility is exemplified by the backlog of construction and repair/renovations needs with 60 of the 183 BIE schools facilities categorized as in “poor” condition in 2009. Annual funding for repair and construction of BIE schools consistently falls short of the need.

## GOVERNMENT-TO-GOVERNMENT CONSULTATION WITH TRIBAL NATIONS

The trust relationship is between tribal nations and the federal government, therefore all federal agencies are required to fulfill that relationship as it applies to their purview. All three branches of the federal government engage with tribal governments in some form.

*The United States has a unique legal and political relationship with Indian tribal governments, established through and confirmed by the Constitution of the United States, treaties, statutes, executive orders, and judicial decisions. In recognition of that special relationship, pursuant to Executive Order 13175 of November 6, 2000, executive departments and agencies (agencies) are charged with engaging in regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, and are responsible for strengthening the government-to-government relationship between the United States and Indian tribes.*

– President Obama,  
**MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES**  
 November 5, 2009

### United Nations Declaration on the Rights of Indigenous Peoples

#### Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own Indigenous decision-making institutions.

#### Article 19

States shall consult and cooperate in good faith with the Indigenous peoples concerned through their own representative institutions in order to obtain their free, prior, and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Engagement with tribal nations goes back to before the United States was founded. George Washington fought side-by-side with Native warriors, President Kennedy welcomed tribal leaders to the White House, President Nixon launched the self-determination era, and recent Presidents have acknowledged the importance of tribal sovereignty.

Recent presidents have issued policy statements and memorandums acknowledging the government-to-government relationship. Expanding on those statements, President Clinton issued Executive Order 13175, which was reissued by President Obama in 2009, that directed federal agencies to develop and implement a plan to consult with tribal nations on an ongoing and meaningful basis. The Executive Order’s purpose is to improve governmental services and programs on reservations within a framework of tribal self-determination. Any time an agency develops a new rule, policy, or directive, or takes any action that might impact tribal nations, the agency must engage in official consultations with affected tribal nations early and often during the decision-making process.

There is also a precedent that has been agreed to at the international level as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) established international norms for free, prior, and informed consent in relation to decisions affecting Indigenous peoples.



Tribal leaders from Nebraska, Kansas, and Iowa gather for FEMA’s Region VII tribal consultation and summit to coordinate and prepare for potential disasters.



## UPHOLDING THE TRUST RESPONSIBILITY

Part of the United States' trust responsibility includes carrying out obligations set forth in treaties. For example, many treaties promised that, in exchange for major portions of a tribal nation's land, the federal government would provide health care and education to the Natives involved, in perpetuity. As a result, today tribal citizens enjoy access to health care services in their communities provided by the federal government. These services, although provided by the federal government, are not welfare. They are the present-day manifestation of treaty rights: the promise the federal government made to every member of that tribal nations, in exchange for the land that belonged to the tribal nation.

### Trust Mismanagement and the Cobell Class Action Lawsuit

The Department of the Interior, charged with the primary responsibility of carrying out trust obligations, grossly mismanaged tribal lands and lost track of billions of dollars in mining, logging, and other royalties that should have gone to American Indians. The *Cobell v. Babbitt* (upon final settlement known as *Cobell v. Salazar*) class action lawsuit filed in 1996 called on the federal government to produce an accurate historical accounting and payment process for the trust funds held for American Indians.

In December 2009, the Obama Administration reached a settlement in the case and in 2010 Congress passed the Claims Resolution Act of 2010, providing \$3.4 billion for the settlement of *Cobell v. Salazar*—\$1.4 billion for settlement of individual accounts and mismanagement claims, \$1.9 billion for a Trust Land Consolidation Fund to purchase “fractionated” individual Indian trust lands, and \$60 million for an Indian Education Scholarship Fund. The federal government began payments to individual account holders in December 2012.



## INDIVIDUAL CITIZENS<sup>44</sup>

### Tribal Citizenship

Like any government, tribal governments determine their own criteria for citizenship. Generally, there is a requirement of lineal descendency from a tribal citizen or sometimes a blood quantum requirement, such as one-quarter. The Supreme Court has recognized that each tribal nation determines its own criteria. Some federal agencies also have criteria for determining eligibility for programs and services. Not all American Indian and Alaska Native people are citizens of tribal nations.

### U.S. Citizenship

American Indian and Alaska Native peoples are citizens of the United States. Though Native people were the first Americans, they weren't always recognized as citizens of the United States.

Citizenship for a limited and specific group of Indian peoples was granted by way of treaty as early as 1817. While limited allowances for citizenship was granted in the century that followed, it was not until the Indian Citizenship Act of 1924 that Congress took an active step in extending citizenship to all other American Indians born within the territorial limits of the United States.

### Voting

American Indians and Alaska Natives have the right to vote just as all other U.S. citizens do. They can vote in tribal, presidential, congressional, state, and local elections, if eligible and registered. And, just as the federal government and state and local governments have the sovereign right to establish voter eligibility criteria, so do tribal governments for their own elections.

The Indian Citizenship Act (1924) extended citizenship rights to a significant number of American Indians and Alaska Natives who had not already become U.S. citizens by other means (e.g., through military service or denouncing tribal status and affiliations); however, not all states removed limits on Native voters.

In the 1948 *Trujillo v. Garley* case, the U.S. District Court of New Mexico struck down limitations in the New Mexico Constitution that prevented American Indians living on the reservation from voting. This case compelled New Mexico, one of the last holdout states, to remove



The Native American Health Center of the California Bay Area participates in Native Vote Action Week events.

voting restrictions affecting Natives living on reservations. Native people in Maine did not receive the right to vote in national elections until 1954 or in state elections until 1967. Native people in Colorado faced literacy test requirements and were some of the last to be enfranchised in 1970.

# 34%

**OF AMERICAN INDIANS  
AND ALASKA NATIVES  
ARE ELIGIBLE AND NOT  
REGISTERED TO VOTE.**

Today, Native voters represent an influential and unique population of voters in the United States, influencing the outcome of U.S. presidential and congressional elections, as well as state and local elections.<sup>45</sup>

In the 2018 mid-term elections, Native people turned out in record numbers, helping to elect the first Native women in Congress, Deb Haaland (New Mexico-1) and Sharice Davids (Kansas-3), who along with new Minnesota Lt. Governor, Peggy Flanagan join Congressman Tom Cole and Markwayne Mullin to expand the ranks of Native voices in the highest offices across the country.<sup>46</sup>

## Debunking Common Myths

### **Does the federal government pay all health care, housing, and college tuition for individual Indians?**

Generally, no. The federal government provides basic health care for many Indian people through the Indian Health Service (IHS). Unfortunately, these health programs have been inadequately funded for many decades, and Indian people have the worst health status of any group in the country. The Department of Housing and Urban Development provides some housing, but Native people have the highest rates of homelessness and overcrowding. The federal government also provides some educational assistance to tribal colleges, but investments often lag behind those provided to other Americans. Higher education generally is not provided and remains beyond the reach of many Native people.

### **Do all tribal citizens receive free money from the federal government?**

Tribal citizens do not receive free money from the federal government. Some tribal citizens receive distributions of money derived from land claim settlements or income generated from the sale, development, and/or use of trust lands.

### **Aren't per capita distributions "free money?"**

Per capita distributions from tribal enterprise or claims settlements with the U.S. government represent the tribal nation's decision to redistribute tribal revenue (ordinarily generated from a tribal business) through individual payments to every tribal member.

# A 100-YEAR HISTORY OF NATIVE SERVICE IN THE MILITARY<sup>47</sup>

Native men and women who volunteer to serve in the U.S. military, or who are veterans of service, are highly regarded within tribal communities for their dedication and commitment to protect the sovereignty of their nations and the United States. Throughout America's history and up to the present day, American Indian and Alaska Native people serve in the U.S. Armed Services at a higher rate than any other group.

## ACTIVE DUTY, RESERVE AND NATIONAL GUARD MEMBERS



## CODE TALKERS<sup>48</sup>



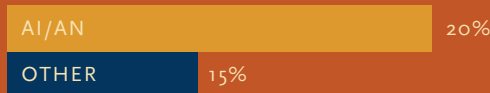
Comanche code talkers of the 4th Signal Company

During World War I and World War II, Native American Code Talkers used their Native languages to transmit codes that the enemy could not decipher. The code talkers program eventually included more than 400 Native warriors using 33 different Native languages. Their heroic actions in the battle zones were vital to America's victories.

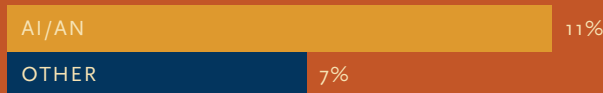
## FEMALE SERVICE MEMBERS

Native Americans have a higher concentration of female service members than any other group.

### ACTIVE FEMALE SERVICE MEMBERS



### FEMALE VETERANS



## VETERANS

It is estimated that more than 154,000<sup>49</sup> veterans identify themselves as solely AI/AN, out of almost 22 million veterans.

**0.7%** OF VETERANS IDENTIFY THEMSELVES AS AI/AN.

In 2010, AI/AN veterans were younger than veterans of all other races combined.





### WORLD WAR ONE

28 JUL 1914–11 NOV 1918

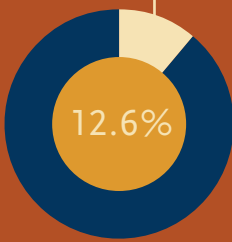
APPROX. 12,000 SERVED



Four American Indians serving in the 142nd Infantry of the 36th Texas–Oklahoma National Guard Division received the Croix de Guerre medal from France.



In November 2013, code talkers from 33 tribal nations were honored for their service with the Congressional Gold Medal.



### WORLD WAR TWO

1 SEP 1939–2 SEP 1945

APPROX. 44,000 SERVED

During World War II, the entire population of Native Americans in the United States was less than 350,000, out of which 44,000 served in the military.

### KOREAN WAR

25 JUN 1950–27 JUL 1953

APPROX. 10,000 SERVED

Three were awarded the Medal of Honor.



### VIETNAM WAR

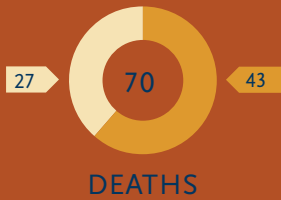
1 NOV 1955–30 APR 1975

APPROX. 42,000 SERVED

More than 90% of these service members were volunteers.



Reports from the Pentagon as of October 2012:<sup>50</sup>



● OPERATION ENDURING FREEDOM  
● OPERATION IRAQI FREEDOM

### POST-9/11 OPERATION: IRAQI FREEDOM

### OPERATION: ENDURING FREEDOM IN AFGHANISTAN

7 OCT 2001–ONGOING

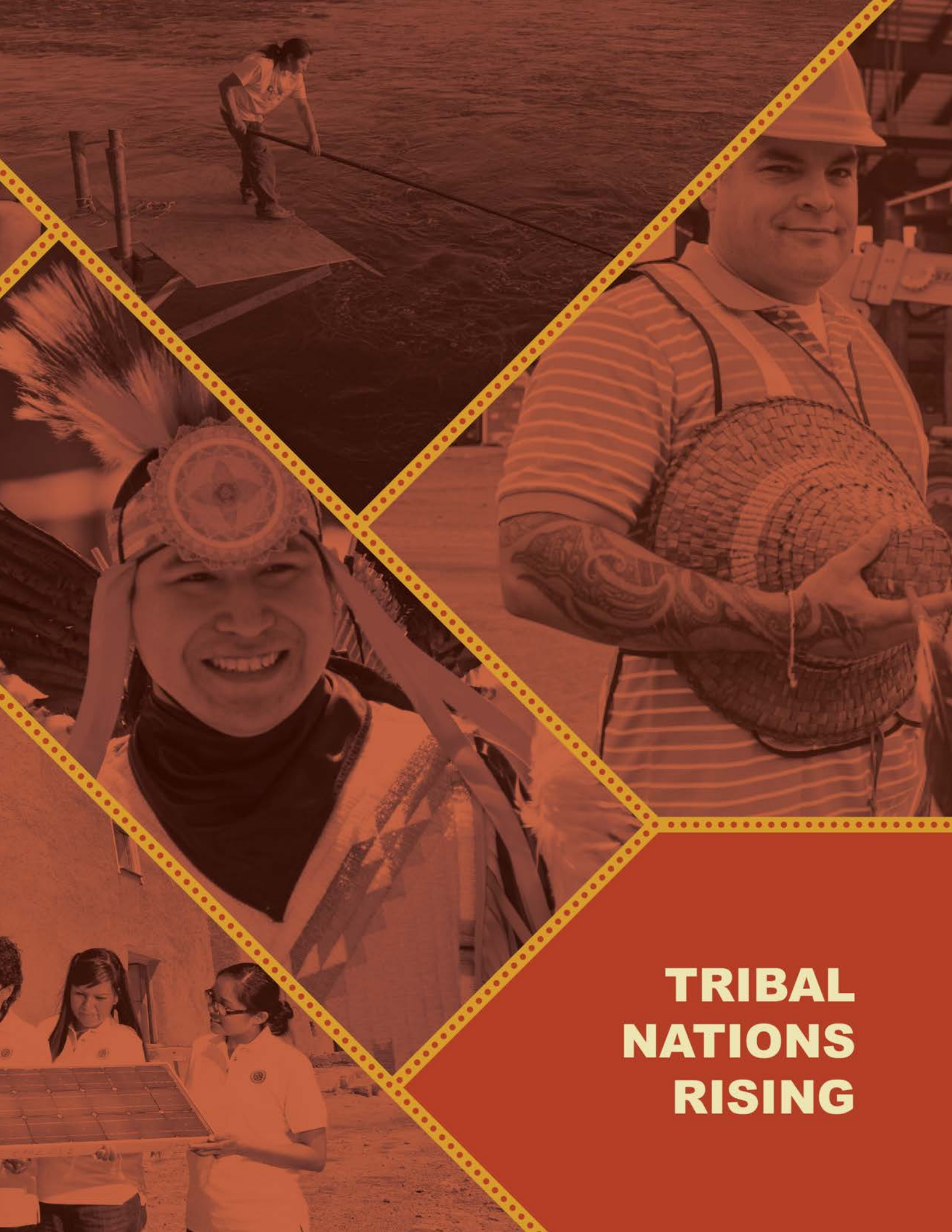
+22,000 SERVING AND SERVED

The 2010 Decennial Census reports 150,000 AI/AN veterans.<sup>51</sup>

2020







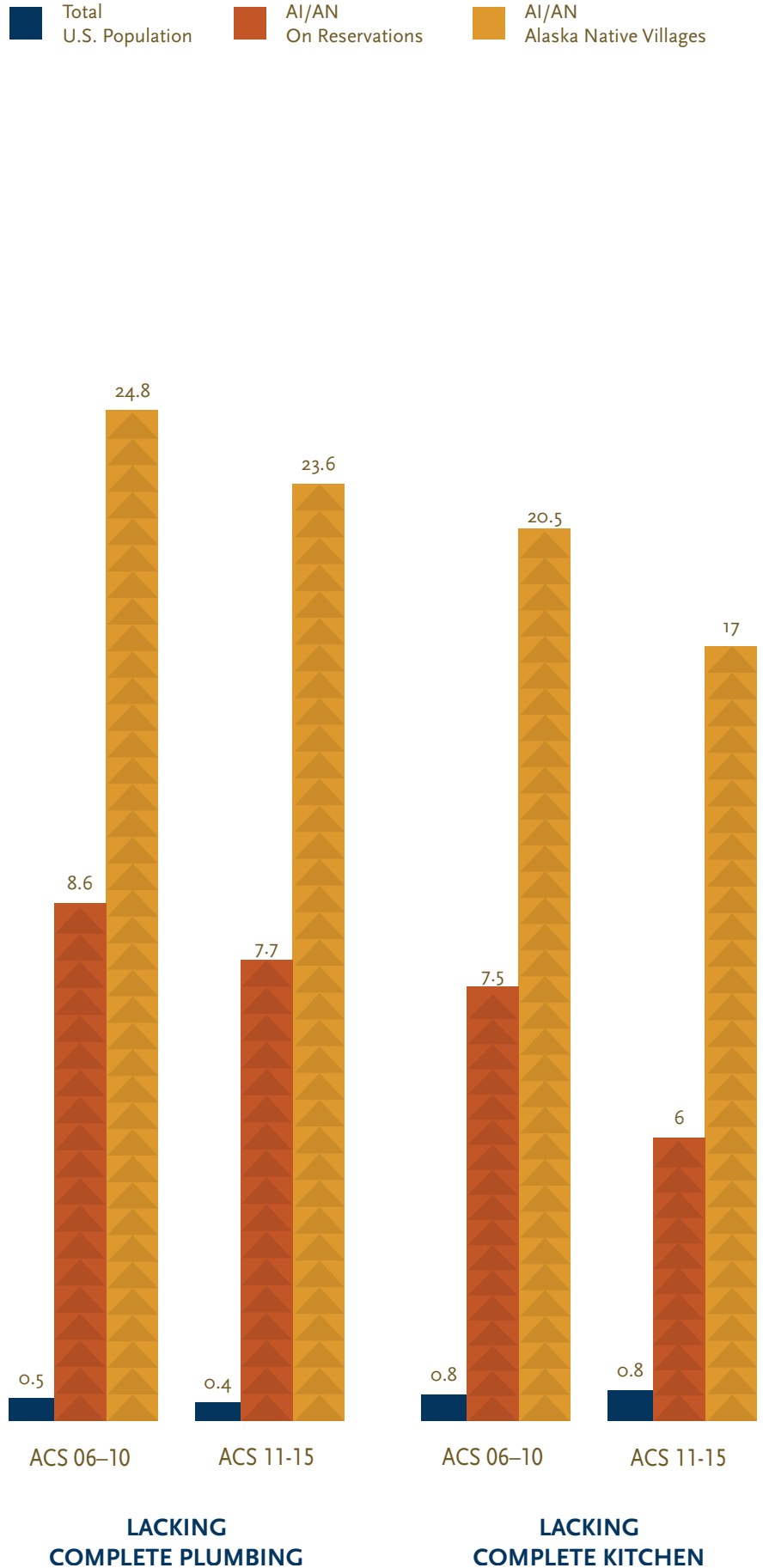
**TRIBAL  
NATIONS  
RISING**



## CONFRONTING DECADES OF CHALLENGES<sup>52</sup>

For more than 500 years, tribal nations and Native peoples have been affected by the influx of foreign cultures and governments in North America. Though devastating to tribal nations, Native peoples have remained. The lingering challenges for Native peoples and tribal governments are a reality, however; and while progress is being made, there remain significant disparities to overcome.

The need for sustained economic growth is critically acute in most Native communities across the country. On reservations (see chart to the right), 39% of Native people are in poverty—the highest poverty rate in America. Indian joblessness is approximately 49%, as measured by the BIA Labor Force Report, and the unemployment rate is about 18% for Native people on reservations, in 2010. Indian health, education, and income statistics are the lowest among all racial groups nationwide. Tribal nations are striving to achieve economic stability and self-sufficiency and are using the tools of self-governance to build sustained prosperity for reservations and surrounding communities.



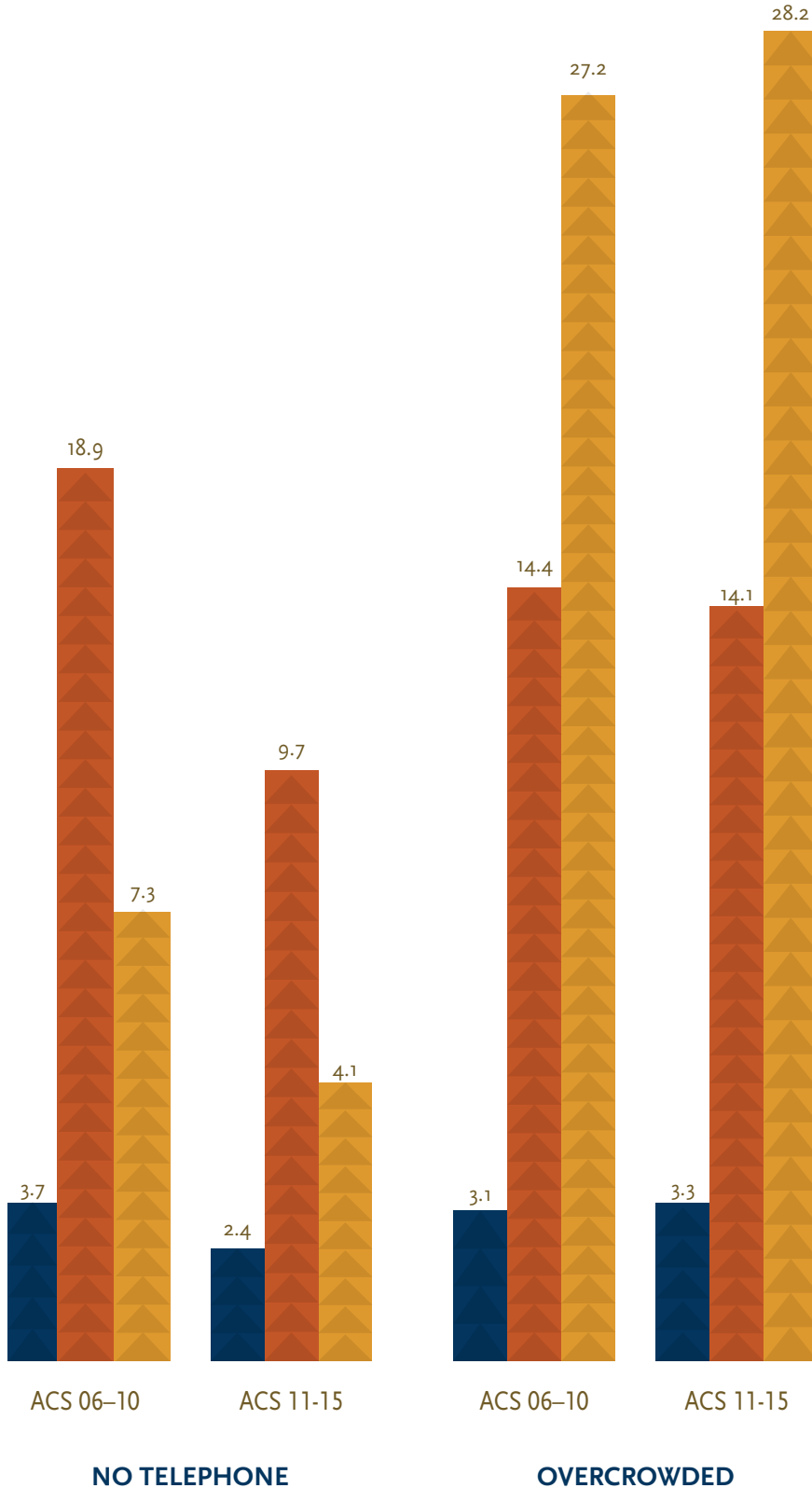
## PROGRESS<sup>53</sup>

Tribal citizens have achieved progress in addressing some of the most basic infrastructure disparities since 2000 (see chart to the left).

In Alaska, 38% of tribal households in Native Village Statistical Areas lacked complete plumbing, 33% had an incomplete kitchen, and 34% were overcrowded in 2000. By the 2006–2010 period estimate, incomplete plumbing dropped by a third to 25%, complete kitchens increased by 13 percentage points, and the number of homes lacking a telephone was cut nearly in half.

Similar advances in infrastructure occurred on reservation lands, but in every census housing indicator, considerable gaps persist: the percentage of reservation homes lacking complete plumbing is 17 times the national percentage, 19% of tribal homes still have no telephone, and overcrowding in reservation homes is almost five times as likely, and nine times for Alaska Native villages, compared to the rest of the nation.

Likewise, the more than 147,000 miles of roads in Indian Country comprise the most underdeveloped roadway network in the nation. Critical 21st century infrastructure, such as broadband access, is also severely underdeveloped in Native communities. Undeniably, the lack of basic housing, transportation, and broadband infrastructure continues to pose significant challenges for tribal health, safety, and economic security.<sup>54</sup>



## THE ECONOMIES OF TRIBAL NATIONS

Although tribal nations still face significant economic barriers, in many places across the country, tribal nations are a major economic force. A third of Native people are employed in education, health care, and social services delivery (see chart to the right). The second-largest sector employing Indian Country is public administration. One in five employed American Indians on tribal lands works in public administration, compared to one in 20 for the entire country.

### Contributing to Tribal, State, and Regional Economies



**OKLAHOMA<sup>55</sup>**  
38 TRIBAL NATIONS  
**96,177** JOBS SUPPORTED  
**\$4.6B** ANNUAL EMPLOYEE WAGES  
**12.9%** OF ALL JOBS IN STATE



**WASHINGTON<sup>56</sup>**  
29 TRIBAL NATIONS  
**27,300** JOBS IN TRIBAL GOV.  
**\$1.3B** ANNUAL EMPLOYEE WAGES  
**\$2.4B** IN GOODS AND SERVICES  
**\$255M** STATE AND LOCAL TAXES

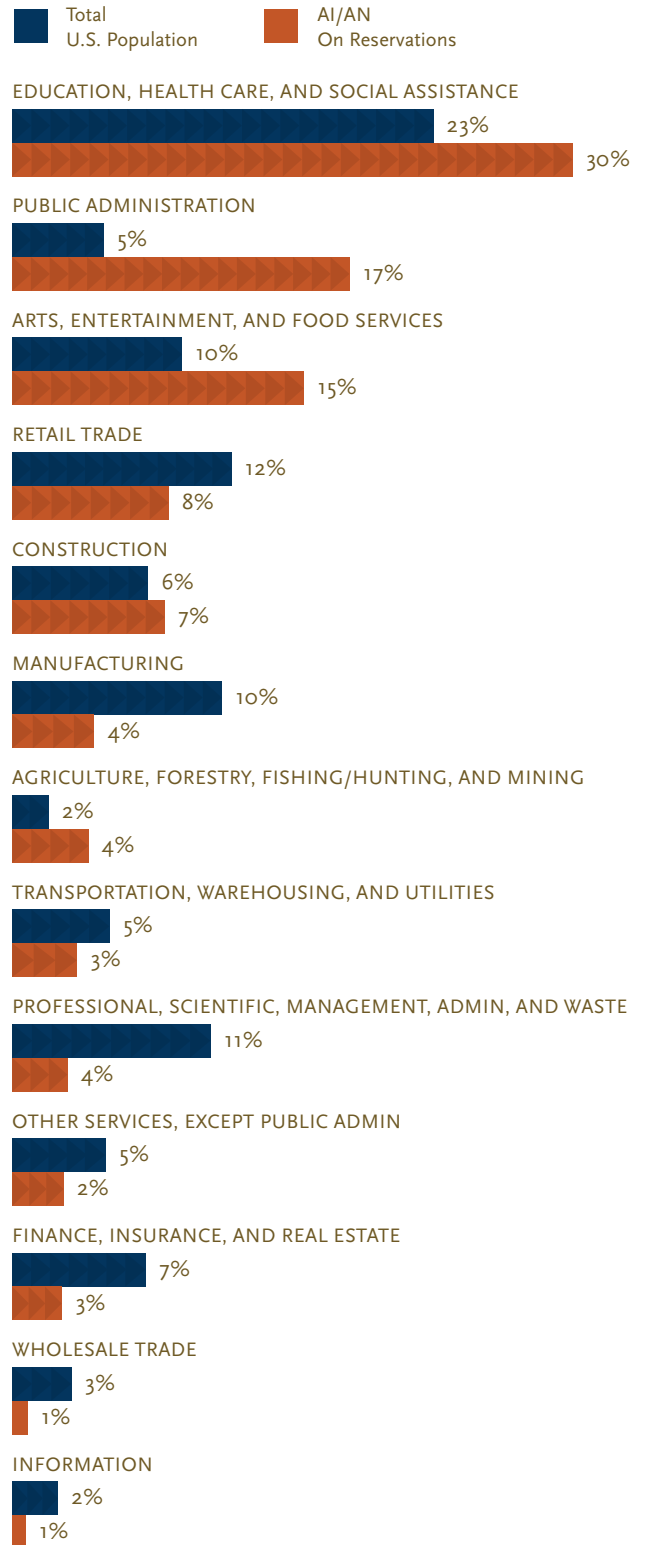


**MINNESOTA<sup>57</sup>**  
11 TRIBAL NATIONS AND BANDS  
**41,700** JOBS SUPPORTED  
**\$576M** ANNUAL EMPLOYEE WAGES  
**\$2.75B** ECONOMIC ACTIVITY  
**\$539M** IN GOODS AND SERVICES



**IDAHO<sup>58</sup>**  
5 TRIBAL NATIONS  
**\$479M** ANNUAL EMPLOYEE WAGES  
**13,840** EMPLOYED  
(INCLUDING MULTIPLIER EFFECTS)

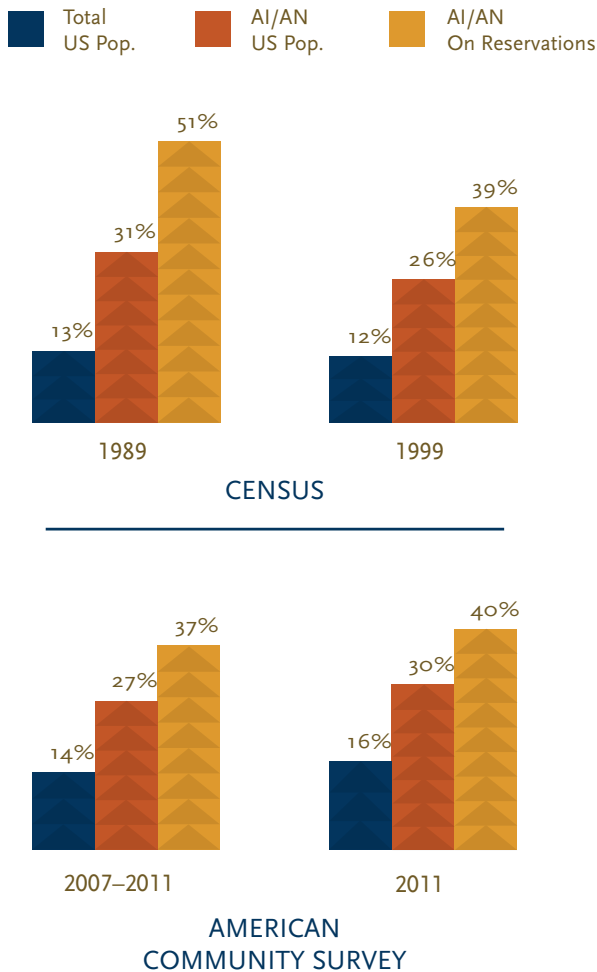
## RESERVATION EMPLOYMENT





## Reducing Poverty<sup>59</sup>

The poverty rate for all American Indians and Alaska Natives (AI/AN) living on reservations in 1990 was 51% (see chart above). That dropped to 39% in 2000, and was recently lowest at 33% in the 2008 Census American Community Survey (ACS) estimate. The number rose again to 40% in the 2011 ACS 1-year estimate.



The poverty rate for AI/AN nationally, on and off reservation lands, was 20 percentage points lower in 1990 than the on-reservation rate, 10 percentage points lower in 2000, and 10 percentage points lower in 2010. So tribal nations dramatically lowered the gap between reservation and total AI/AN poverty, but the Great Recession halted the narrowing of the gap.

## BUSINESS GROWTH

Many factors give cause for hope in Indian Country for creating economic security and prosperity.

The American Indian population had an estimated buying power of \$115 billion in 2018, which is larger than many countries, including the following:<sup>60</sup>

### American Indians

\$115 Billion

### Serbia

\$105 Billion

### Panama

\$104 Billion

### Uganda

\$89.1 Billion

### Costa Rica

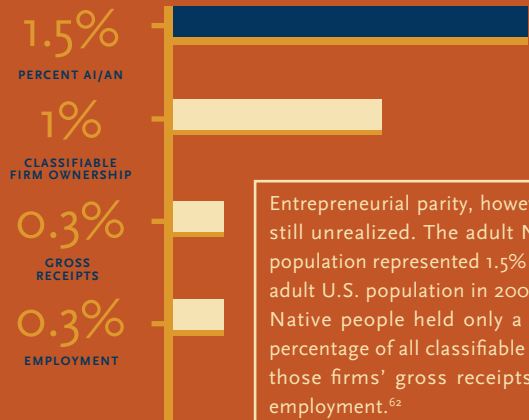
\$83.5 Billion



**\$38.8 BILLION**



The worth of total receipts of these businesses, up 13% from 2007.



Entrepreneurial parity, however, is still unrealized. The adult Native population represented 1.5% of the adult U.S. population in 2009, but Native people held only a small percentage of all classifiable firms, those firms' gross receipts, and employment.<sup>62</sup>

## GAMING AS ECONOMIC DEVELOPMENT

Large-scale gaming sponsored by tribal governments started in the early 1980s at the same time that state lotteries began to proliferate. Gaming provides jobs, improves economic growth on reservations, and strengthens regional economies.

Tribal gaming is the most regulated form of gaming in the nation. In fact, much like the revenues from state lotteries, tribal governments are required to use gaming revenues to fund social service programs, scholarships, health care clinics, new roads, new sewer and water systems, adequate housing, and chemical dependency treatment programs, among others.

Established by the Indian Gaming Regulatory Act (IGRA) of 1988, economic development from governmentally operated gaming has allowed for some tribal nations to establish a foothold and expand into other business ventures such as telecommunications, manufacturing, consulting, and energy development. Compliance and regulation of IGRA is overseen by an independent regulatory agency established within the Department of the Interior.

Small and moderate gaming operations made up 71.2% of Indian gaming. In total nearly 241 tribal nations across 29 states operated 501 gaming locations representing a \$33.7 billion industry. Many Indian tribal nations use gaming revenues to fund economic development activities on reservations and more effective provision of tribal government services, including health services, early education programs and language and cultural preservation activities.<sup>63</sup>

*Gaming provides jobs, improves economic growth on reservations, and strengthens regional economies.*

### Are all tribal nations getting rich from casinos?<sup>64</sup>

In communities where gaming is overwhelmingly successful, casinos can provide thousands of jobs for Natives and non-Natives and can pay millions of dollars in payroll taxes and other direct benefits to state and local governments. The majority of tribal gaming facilities are small ventures—typically offering bingo games—and even these provide moderate increases in job availability and economic activity in communities where few other options exist.

In 2018, 94 Indian gaming operations reported gross gaming revenue between \$10 million and \$25 million, 91 Indian gaming operations reported gross gaming revenue between \$3 million and \$10 million, and 102 Indian gaming operations reported gross gaming revenue less than \$3 million.

### How is tribal gaming regulated?

Tribal gaming is the most regulated form of gaming in the nation. Although it is regulated primarily by tribal nations themselves, both the state and the federal governments also exercise control over Indian gaming. The Supreme Court has ruled that tribal nations may not engage in gaming activities criminally prohibited by the state. If state law civilly regulates a form of gambling, however, tribal nations within the state may engage in that gaming free of state control. At the federal level, the National Indian Gaming Commission, established by the Indian Gaming Regulatory Act (IGRA), regulate tribal gaming. In keeping with Supreme Court rulings, IGRA generally allows tribal nations to offer Class II games such as bingo, as long as they are not criminally prohibited by the state. For Class III casino-style gaming, however, tribal nations must first negotiate compacts with states concerning regulation and games to be played.

### How do tribal nations use the revenues from Indian gaming?

Tribal government-sponsored gaming enterprises are comparable to state lotteries; these ventures are operated by a governmental entity to raise revenue for essential government functions. Tribal nations are required by IGRA to use gaming revenues to fund essential services, such as education, law enforcement, tribal courts, economic development, and infrastructure improvement. Tribal nations do not have a tax base like state and local governments, therefore the revenues accruing to tribal governments from any source are used like a tax base.

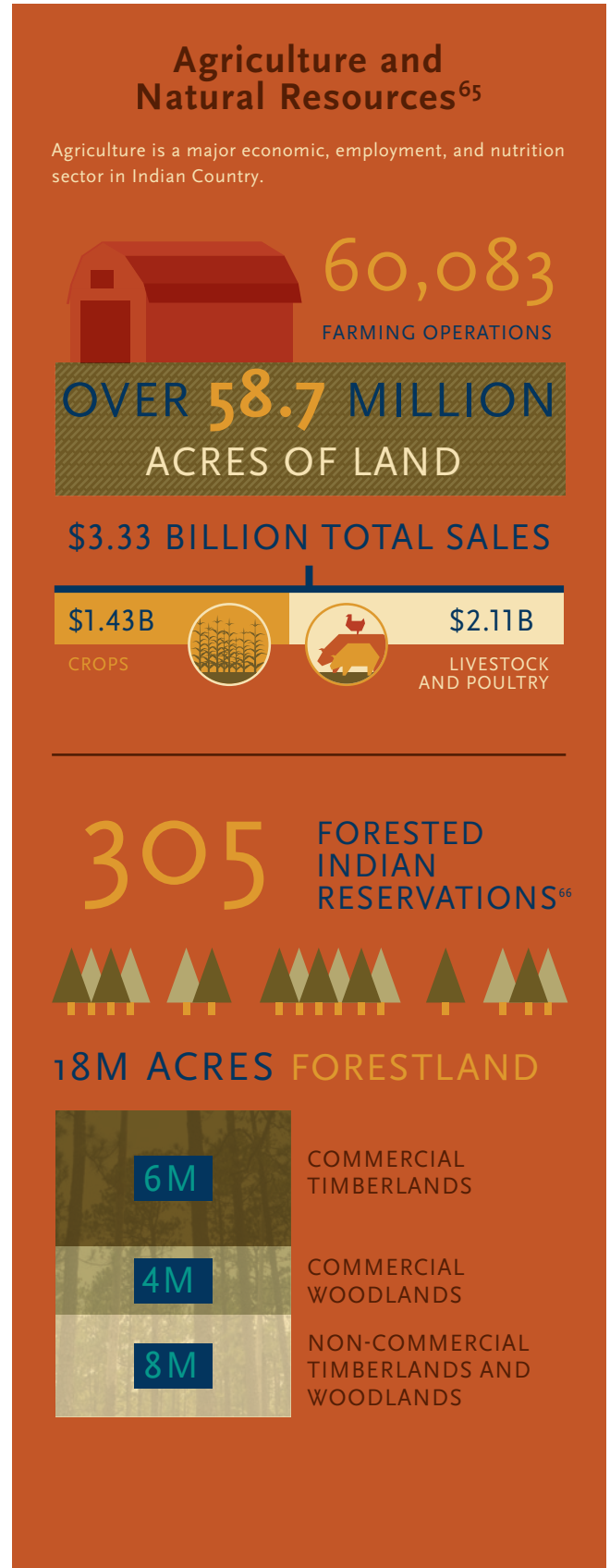
## MINORITY SMALL BUSINESSES AND NATIVE CONTRACTING

Native-owned small businesses have grown over the last thirty years and are significant contributors to the growing tribal economy. Much of this growth is due to the Small Business Administration’s (SBA) Business Development Program. Created by Congress in 1958, the civil rights era program empowers minorities, women, veterans, and other disadvantaged individuals and groups to gain equal access to the federal marketplace.

*The civil rights era program created in 1958, empowers minorities, women, veterans, and other disadvantaged individuals and groups to gain equal access to the federal marketplace.*

To promote economic development for American Indian tribal nations, Alaska Native Regional and Village Corporations (ANCs), and Native Hawaiian Organizations (NHOs) Congress authorized their participation in the Small Business Act’s Section 8(a) Business Development program. While tribal nations were eligible for the program by the time of its programmatic implementation in the late 1960s, the definitions of eligible organizations was modified for clarification over the 1970s and ’80s to expand economic development in economically under-resourced areas. ANCs were included in the program in 1988, and NHOs were included in 2002.

When certified as an eligible participant, tribal and ANC startup businesses may contract with the federal government under terms that permit a federal agency to award a contract not subject to the competitive threshold that applies to individually owned companies and allows tribal nations and ANCs to operate multiple firms. Congress purposefully created these distinctions to further its federal trust obligation to tribal nations and to provide tools to combat escalating poverty in tribal communities and to remedy the low level of American Indian and Alaska Native participation in the government contracting industry.







National Congress of American Indians founding members at NCAI's Constitutional Convention, Cosmopolitan Hotel, Denver, Colorado, November 15–18, 1944

## NCAI MISSION

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**01**

Protect and enhance treaty and sovereign rights.

**02**

Secure our traditional laws, cultures, and ways of life for our descendants.

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### ABOUT THE NATIONAL CONGRESS OF AMERICAN INDIANS (NCAI)

#### The Unified Voice of Indian Country

Founded in 1944, the National Congress of American Indians (NCAI) is the oldest, largest, and most representative American Indian and Alaska Native organization serving the broad interests of tribal governments and communities.

NCAI, a non-profit organization, advocates for a bright future for Native generations to come. The organization's policy issues and initiatives are driven by the consensus of our diverse membership, which consists of American Indian and Alaska Native tribal governments and tribal citizens.

NCAI was established in response to the termination and assimilation policies the U.S. government forced upon tribal governments in contradiction of their treaty rights and status as sovereign nations. To this day, protecting these inherent and legal rights remains the primary focus of NCAI.

As outlined in the NCAI Constitution, our purpose is to serve as a forum for unified policy development among tribal governments in order to: (1) protect and advance tribal governance and treaty rights; (2) promote the economic development and health and welfare in Indian and Alaska Native communities; and (3) educate the public toward a better understanding of Indian and Alaska Native tribal nations.





## 03

Improve the quality of life for Native communities and Native peoples.

### Issue Advocacy and Public Education

Since as far back as President Franklin D. Roosevelt's Administration, NCAI has been the leading voice for tribal interests in Washington, D.C., ensuring that the federal government upholds its trust responsibility to tribal nations and Native peoples.

Today, NCAI is actively engaged through national and international advocacy efforts, educational campaigns and events, and programmatic initiatives. These efforts and partnerships promote strong tribal governments and address the many human, economic, social, environmental, and cultural needs of Native communities.

The NCAI Policy Research Center (PRC), is a tribally driven think tank established as a program of NCAI in 2003. The PRC supports and informs policy development efforts with tribally driven data and analysis.

The NCAI Partnership for Tribal Governance (PTG),

## 04

Promote a common understanding of the rightful place of tribes in the American family of governments.

established in 2009, is a vehicle to increase, enhance, organize, and make accessible the resources necessary to support tribal nations' efforts to strengthen their governance systems.

These combined efforts offer the most comprehensive tribally driven solutions focused on strengthening tribal nations, educating the general public, and enhancing the nation-to-nation relationship between tribal governments and the governments of the United States.

### Embassy of Tribal Nations

NCAI is headquartered at the Embassy of Tribal Nations. Established in 2009, the Embassy is a powerful symbol of the nation-to-nation relationship between tribal nation and the United States. It serves as a headquarter for tribal leaders during visits to Washington, D.C., to conduct the business of their nations.

Learn more at: [www.ncai.org](http://www.ncai.org)

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