



Energy Projects and Workforce Development: A Win-Win Opportunity



Payton Batliner *CHEROKEE NATION*
Economic Development Specialist
Acting Branch Chief, Business Services Branch





DIVISION OF ENERGY AND MINERAL DEVELOPMENT



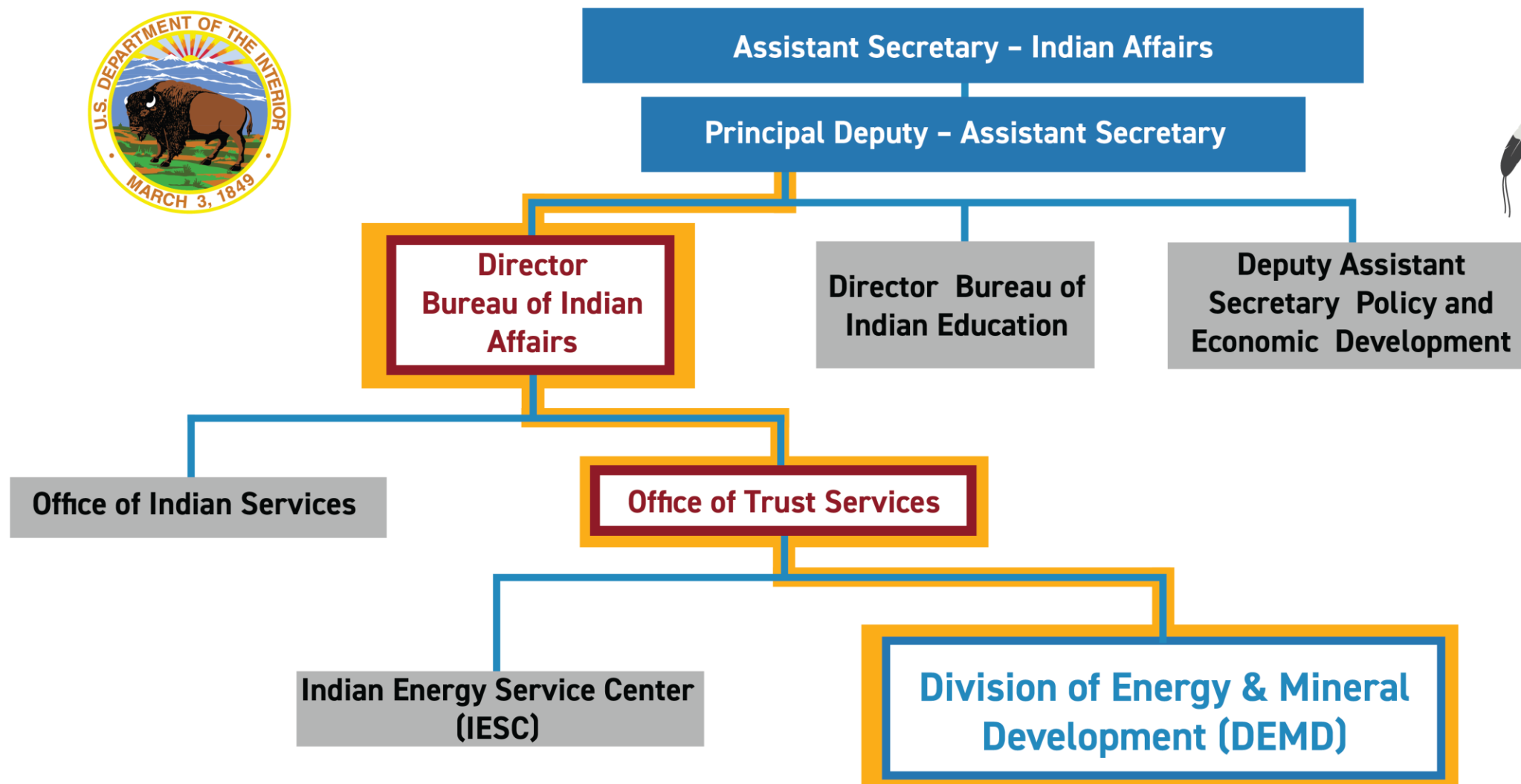
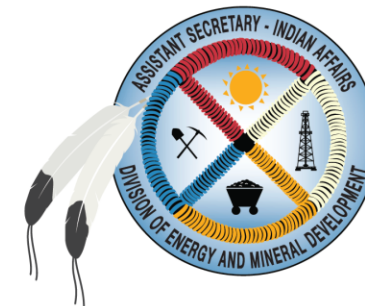
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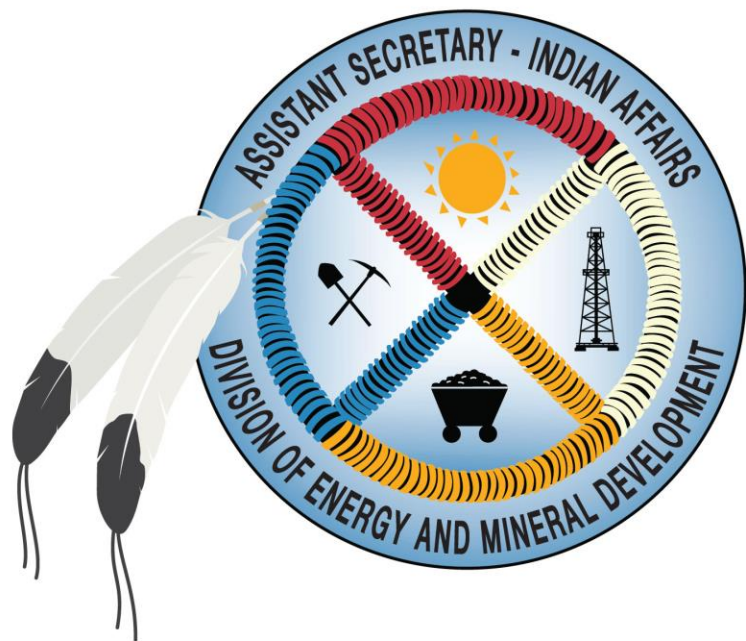
Payton Batliner is an Economic Development Specialist and Acting Branch Chief of the Business Services Branch within the Department of Interior's Division of Energy and Mineral Development (DEMD). He has worked at DEMD since 2009. He works across all commodity groups in the Division and specializes in business planning, financial analysis, and Tribal Utility Formation. Payton holds an MBA with an emphasis in finance and entrepreneurship from the University of Colorado at Boulder. He is an enrolled member of the Cherokee Nation of Oklahoma, and was born on the Pine Ridge Reservation in South Dakota.



DIVISION OF ENERGY AND MINERAL DEVELOPMENT



In April 2021
DEMD was
moved back
under BIA -
Office of Trust
Services



DEMD Mission

Provide the best possible technical and economic advice and services in assisting Indian mineral owners to achieve economic self-sufficiency by creating sustainable economies through the environmentally sound development of their energy and mineral resources.



DIVISION OF ENERGY AND MINERAL DEVELOPMENT

FLUID MINERALS

Team of professionals provides technical support, mineral assessments, economic analysis, lease negotiations and recommendations for all oil and natural gas energy resources.

SOLID MINERALS

Solid Minerals staff supports Tribes and allottees in assessing and developing their mineral and aggregate resources, resource evaluation and bringing resources into production and profitable joint ventures.

GEOTECHNICAL DATA SERVICES

Geotechnical Data Team maintains seismic datasets and provides data to oil and gas companies or other investors who are interested in exploration and developing new reserves on Indian lands.

NIOGEMS

NIOGEMS is a map-oriented computer software application for managing reservation oil and gas lease, well, production, and other energy/mineral resource data. Training and support are all provided at no cost.

RENEWABLE & DISTRIBUTED GENERATION

Renewable and distributed energy team is committed to helping Tribes formulate and implement energy development strategies, pre-feasibility studies, and consultation to best fit with their unique circumstances and long-term visions.

BUSINESS SERVICES

Business Services provides strategic and economic planning guidance and business structure. Grant Programs and Marketing services.

DEMD Branches provide the best technical assistance to federally recognized Tribes, including Alaska Native Villages to identify and implement opportunities to maximize their revenue stream and resource development.



Business Services Branch

Provides strategic financial analysis, business structure consultation, and economic development planning guidance across all energy and mineral development projects.

Key Services offered to Tribes:

- » Business Planning, Entity Formation & Project Management
- » Deal Structuring & Evaluation
- » Financial Analysis
- » Assistance Accessing Grant Funding and Loan Guarantee Financing
- » Marketing Department offers a wide variety of marketing services to energy and mineral projects





Grant Programs and Services

✦ EMDP-Energy and Mineral Development Program

FOAs Coming Soon!

- Grant program to assess, evaluate and promote development of tribal energy and mineral resources
- \$5 Million to \$9 Million Annually



✦ TEDC-Tribal Energy Development Capacity Program

- Grant program to develop tribal managerial, organizational, and technical capacity to maximize the economic impact of energy resource development on Indian land.
- \$1 Million to \$1.5 Million Annually



✦ Technical Assistance

- Liaison between Tribes, Industry, and other Federal Programs
- Consultation on developing stable business environments on reservations
- Assist Tribes with negotiation of resource development agreements
- Strategic and economic planning



DEMD Grants: TEDC & EMDP

229

Active Grant and Technical
Assistance Projects

\$8.1MM

Grant Funded
to Tribes
2020 Funding

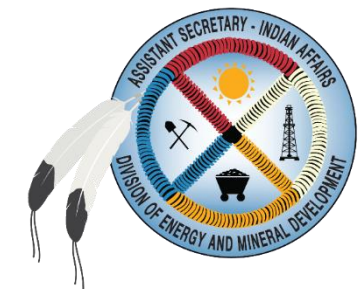
~\$6MM

Awarded Annually
Energy and Mineral Development Program
(EMDP) Grant

~\$1.5MM

Awarded Annually
Tribal Energy Development Capacity
(TEDC) Grant

*To develop tribal economies and promote development that maximizes the economic impact of
energy resources on tribal lands*



Grants.gov



Active Grant and Technical Assistance Projects, 2020



30

Fluid Minerals

36

Solid Minerals

71

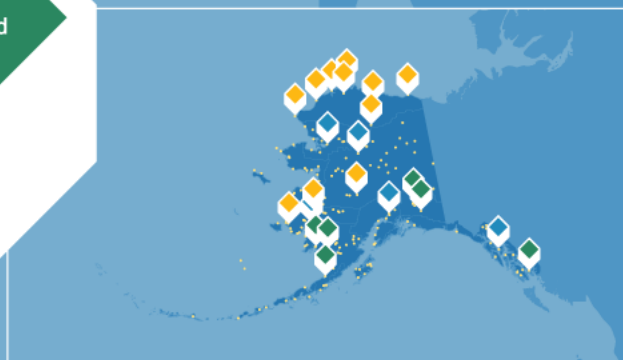
Renewable and
Distributed
Generation

28

TEDC

64

NIOGEMS



LEGEND

- Fluid Minerals
- Solid Minerals
- Renewable and Distributed Generation
- NIOGEMS
- TEDC
- Native American Reservations Boundaries
- Oklahoma Tribal Statistical Areas
- Alaska Native Entities

TRIBAL ENERGY DEVELOPMENT CAPACITY (TEDC) GRANT PROGRAM

- ❖ Grant program to develop tribal managerial, organizational and technical capacity to maximize the economic impact of energy resource development on Indian land
 - Establish business entity structures and/or organizational structures related to energy resource development Business development capacity
 - Develop or enhance key regulatory activities
- ❖ FY 2015 over \$1.5 Million awarded
 - 10 Total Project Awards
- ❖ FY 2016 over \$1.4 Million awarded
 - 16 Total Project Awards
- ❖ FY 2018 \$1.488 Million awarded
 - 16 Total Project Awards
- ❖ FY 2019 \$1 Million awarded
 - 12 Total Project Awards
- ❖ FY 2020 \$1.55 Million awarded
 - 16 Total Project Awards



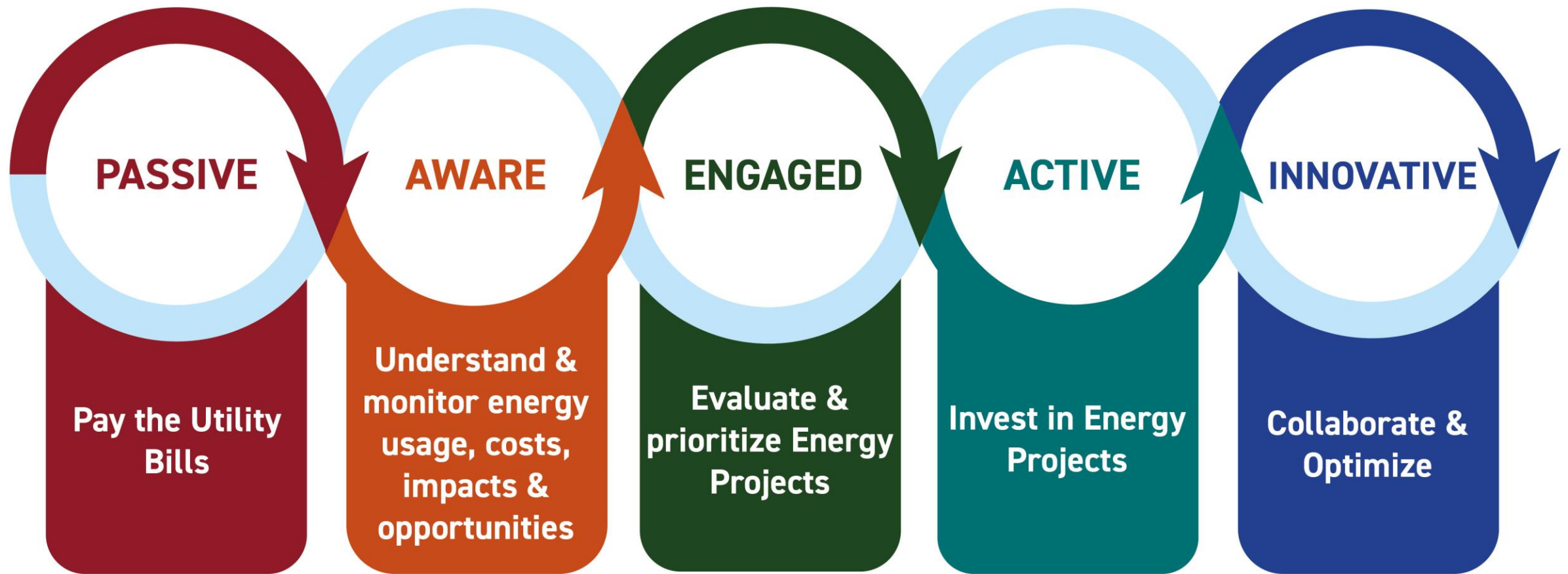
TEDC Grant Program Activities

- ✦ Developing legal infrastructure for business formation
- ✦ Establishing tribally chartered corporations under tribal corporation codes
- ✦ Establishing tribal business charters under federal law (IRA Section 17 corporation)
- ✦ **Establish Tribal Utility Authority**
- ✦ Developing or enhancing tribal policies, codes, regulations, or ordinances related to regulating and developing energy resource(s)
 - Land lease regulations for energy development purposes
 - Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act
- ✦ Adopting secured transaction codes and subsequent joint power agreement with the tribe's respective state.



ENERGY DEVELOPMENT CAPACITY

Capacity Development Process



Source: Midwest Tribal Energy Resources Association (MTERA)



Why Focus On Utility Development?

- ❖ Tribes spend on average \$2-\$3 million per year on electric power.
 - This can range from a low of a couple hundred thousand up to \$20+ million for large casino/resort tribes.
- ❖ Extrapolated to all Federally recognized tribes this is a \$1-\$2 billion dollar annual market.
- ❖ The Utility market on Tribal lands is largely owned, operated, and controlled by **third party incumbent utilities** who may or may not have the tribe's best interests in mind.
- ❖ Tribes need to, and are, taking a more active role in managing these assets.



BUSINESS SERVICES

THE TRIBAL ENERGY DEVELOPMENT CAPACITY (TEDC) GRANT PROGRAM HAS FUNDED NEARLY 30 TUA PROJECTS IN FY 2015 - FY 2019. THE BELOW INFORMATION IS A CASE STUDY FROM A FY 2015 TEDC PROJECT.

TRIBAL UTILITY AUTHORITY FEASIBILITY WORK

ANALYZE ENERGY INFRASTRUCTURE

REVIEW LEGAL & REGULATORY ISSUES

ASSESS BUSINESS ENTITY OPTIONS

FINANCIAL ANALYSIS



ASSESS BUSINESS ENTITY OPTIONS

Organizational options

TRIBAL UTILITY AUTHORITY FEASIBILITY WORK

Federally Chartered Corporation (Section 17)

Pros

- Clearly separates assets and liabilities
- Preserves integrity of business decisions
- Same tax status as tribe

Cons

- Typical "sue and be sued" clause may waive tribal immunity
- Must be wholly owned by tribe (no outside partners)
- Subjects the corporation extensive oversight

Tribally Chartered Corporation

Pros

- Sovereign immunity preserved
- Can be easily set up if the laws are in place
- Generally relatively flexible

Cons

- Tax status not clear, and depends on circumstance

Unincorporated agency or division of tribe

Pros

- Likely receives privileges of tribal sovereign immunity and tax status
- Relatively easy to form

Cons

- Not a separate legal entity from the tribe
- No separation of assets, property, or decision-making

Political sub-division of tribe

Pros

- Retains sovereign immunity
- Can be delegated powers
- Can be governed by a separate Board of Directors while retaining ultimate control by the Tribe
- Can serve as a holding company for tribal businesses

Cons

- To avoid subjection to federal taxation, specific powers must be delegated (to tax, to exert eminent domain, or to police)
- Process can be timely and slow
- May be a barrier in seeking outside investment

State law entity

Pros

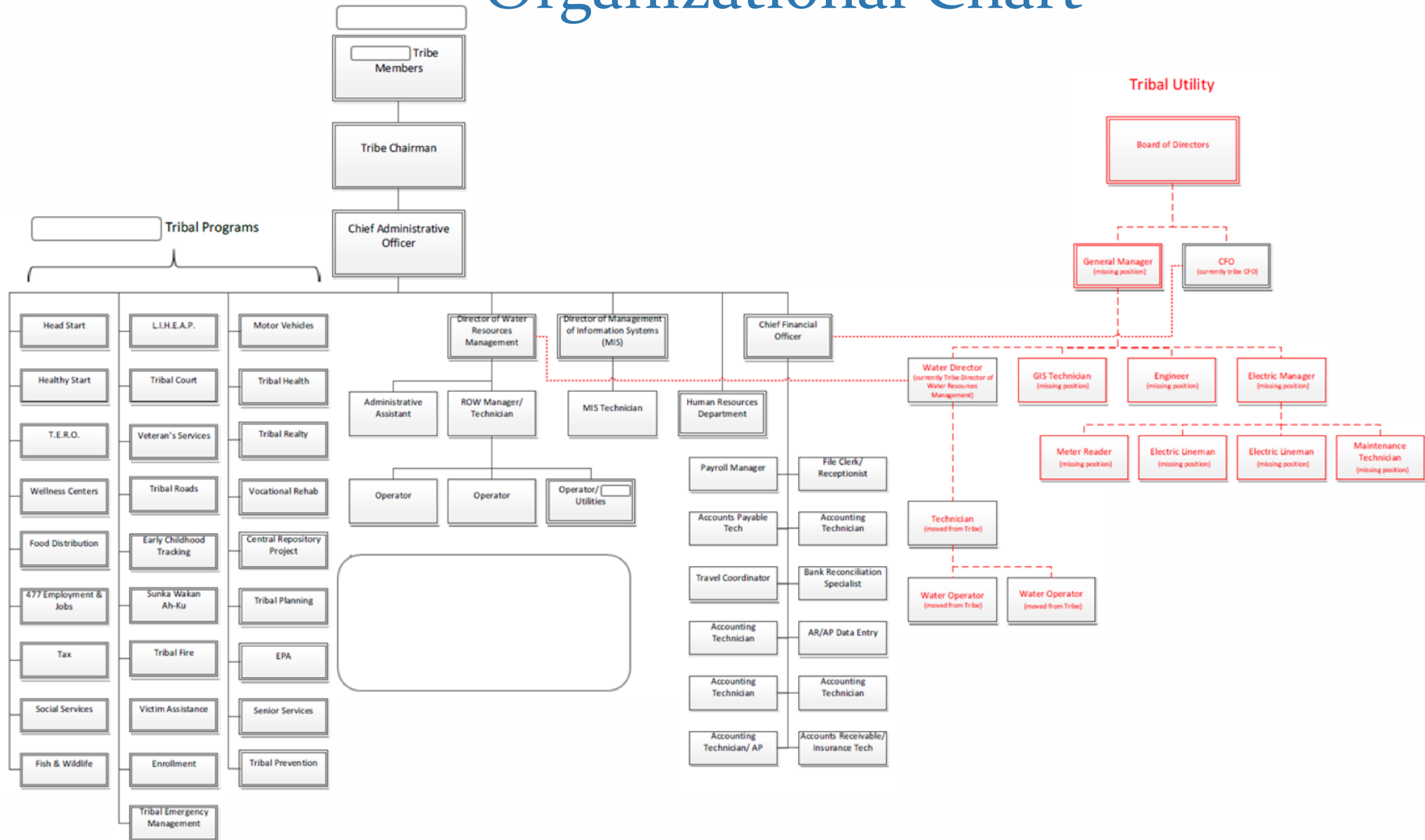
- Limitation of liability
- Centralizes management of the entity
- Separates organization governance from Tribal governing body
- Relatively easy and familiar to outside parties

Cons

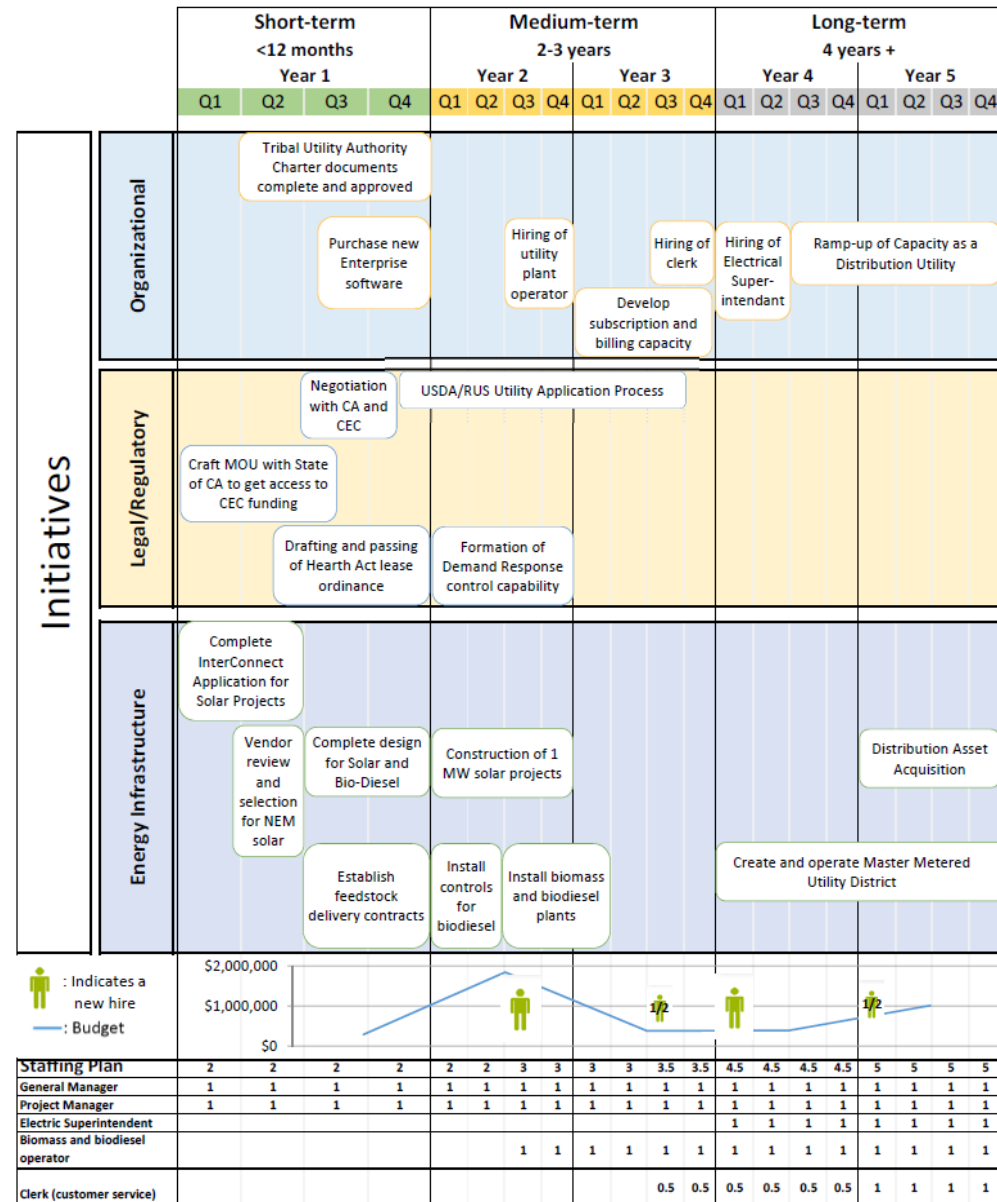
- Not protected under sovereign immunity
- Subject to state and federal taxation
- Subject to state law

A number of organizational options exist

Organizational Chart



This is a living document, and should be updated quarterly.



Staffing Plan



FINANCIAL ANALYSIS

TRIBAL UTILITY AUTHORITY FEASIBILITY WORK

	Tribal Utility Alternative	Estimated Upfront Cost	Potential Annual Savings	Benefits	Potential Issues & Risks
More Complex	1 Full Tribal Utility	\$5-10 Million	0%* <small>*Unlikely to achieve short term savings</small>	<ul style="list-style-type: none">• Reinvest utility revenues• Full control over power supply and cost• Ability to add jobs	<ul style="list-style-type: none">• Tribe solely responsible for service reliability• High up-front cost
	2 Outsourced Tribal Utility	\$2-8 Million	9%	<ul style="list-style-type: none">• Reinvest utility revenues• Full control over power supply and cost• Possibility to add jobs in future	<ul style="list-style-type: none">• Need to coordinate with third parties to ensure service reliability
	3 Control Power Supply Only	\$0-800 Thousand	4%	<ul style="list-style-type: none">• Full control over power supply and cost• No change in provider	<ul style="list-style-type: none">• Need to establish regulatory framework• Need to negotiate with Trico to allow power purchase
Less Complex	4 Control Service Territory Only (Not a Tribal Utility)	\$0-800 Thousand	15%	<ul style="list-style-type: none">• Ability to select electric service provider• Residential rates most likely to go down	<ul style="list-style-type: none">• No benefits of tribal utility• Likely to pay charges related to infrastructure• Fully reliant upon new provider• No control over future cost or power supply
	- Status Quo (Not a Tribal Utility)	\$0	0%	<ul style="list-style-type: none">• No change to Trico service	<ul style="list-style-type: none">• Reliant upon Trico• No control over cost or power supply



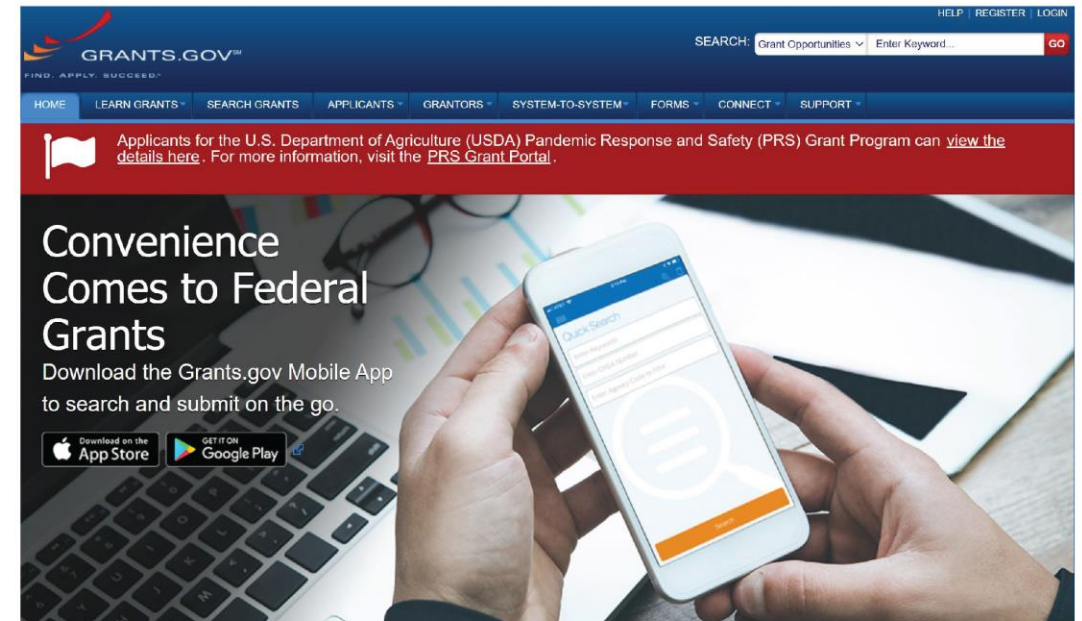
BUSINESS SERVICES

For more information on
EMDP and TEDC

Both grant FOAs can be
found on **Grants.gov**

Technical Assistance:

- » Microgrid
- » Solar
- » Wind
- » Biomass





DIVISION OF ENERGY AND MINERAL DEVELOPMENT

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